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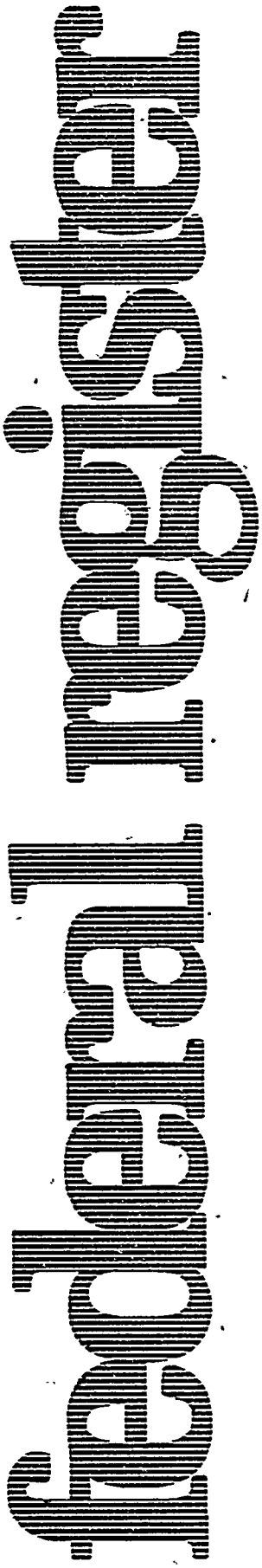

Friday
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Highlights

46279 **Citizenship Day and Constitution Week, 1981** Presidential proclamation.

46317 **Condominiums** HUD/FHC issues interim rule on mutual mortgage insurance and insured home improvement loans to facilitate homeowner purchases of properties.

46282 **Food Stamps** USDA/FNS establishes procedures for Work Registration/Job Search Demonstration Project.

46332 **Government Employees** OPM proposes definition and designations of medically underserved areas under the Federal Employees Health Benefits Program.

46330 **Grant Programs—Government Employees** OPM proposes implementation procedures for personnel management research and demonstration projects.

46443, 46448 **Pensions** Labor/P&WBP discusses class exemptions for transactions involving "guaranteed contract separate accounts." (2 documents)

46333 **Radiation Protection** NRC proposes to amend physical protection regulations for certain nonpower reactor facilities.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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46528, 46538 **Continental Shelf** Interior/BLM indentifies bidding systems and designates tracts for oil and gas lease sale no. 66 in the Gulf of Mexico. (Part III of this issue) (2 documents)

46386 **Securities** FRS issues policy statements on forward placement or delayed delivery contracts and interest rate futures contracts.

46462 **Government Securities** Treasury invites tenders for notes of September 30, 1985, Series J-1985.

46300 **Savings Accounts** FHLBB issues amendments on rates of return.

46303 **Credit Unions** NCUA issues interpretive ruling and policy statement on sale-and-leaseback transactions.

46307 **Small Businesses** SBA establishes regulations for loans to Employee Stock Ownership Plans.

46338 **Air Carriers** CAB proposes automatic extension of certain expiring foreign air carrier licenses.

46287 **Retail Food Stores** USDA/FSIS clarifies exemption procedure for Federal meat and poultry products inspection.

46395 HHS/FDA announces 1981 revision of proposed Model Retail Food Store Sanitation Ordinance.

46340 **Bread** HHS/FDA reinstates proposal on reduced calorie labeling.

46340 **Alcohol and Alcoholic Beverages** Treasury/BATF proposes to minimize regulatory requirements on producers of volatile fruit-flavor concentrates.

46542 **Hunting** Interior/FWS prescribes late open seasons, hunting hours and areas, and daily bag and possession limits for certain migratory game birds. (Part IV of this issue)

46361 **Wildlife** Interior/FWS proposes to revise wildlife and plant permit regulations.

46498 **Minimum Wages** Labor/ESA/W&H publishes minimum wages for Federal and federally assisted construction. (Part II of this issue)

46465 **Sunshine Act Meetings**

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Presidential Documents

Title 3—

The President

Proclamation 4858 of September 16, 1981

Citizenship Day and Constitution Week, 1981

By the President of the United States of America

A Proclamation

Daniel Webster once wrote, "We may be tossed upon an ocean where we can see no land—nor, perhaps, the sun or stars. But there is a chart and a compass for us to study, to consult, and to obey. The chart is the Constitution."

September 17, 1981, marks the 194th anniversary of our Constitution. Its Framers scarcely could have conceived of the timelessness of the document they so carefully drafted. They prepared a Constitution to meet the needs of a fledgling nation. Yet today, amid the complexities of the twentieth century, that same Constitution, with only several amendments, serves a nation whose territory spans a continent and whose population exceeds two hundred and twenty-five million. With the passing of each year, it becomes increasingly evident that, in the words of Chief Justice John Marshall, our Constitution will "endure for ages to come."

The Constitution establishes the Congress, the Executive, and the Judiciary, and through a deliberate allocation of authority, it defines the limits of each upon the others. It particularizes the liberties which, as free men and women, we insist upon, and it constrains both Federal and State powers to ensure that those precious liberties are faithfully protected. It is our blueprint for freedom, our commitment to ourselves and to each other.

It is by choice, not by imposition, that the Constitution is the supreme law of our Land. As we approach the bicentennial of this charter, each of us has a personal obligation to acquaint ourselves with it and with its central role in guiding our Nation. While a constitution may set forth rights and liberties, only the citizens can maintain and guarantee those freedoms. Active and informed citizenship is not just a right; it is a duty.

In recognition of the paramount importance of the Constitution to our Nation, and in recognition of all who have attained the status of United States citizens, the Congress by joint resolution on February 29, 1952 (36 U.S.C. Section 153), designated September 17th as Citizenship Day, and by joint resolution of August 2, 1956 (36 U.S.C. Section 159), requested the President to proclaim the week beginning September 17th and ending September 23rd of each year as Constitution Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, call upon appropriate Government officials to display the flag of the United States on all Government buildings on Citizenship Day, September 17, 1981. I urge Federal, State and local officials, as well as leaders of civic, educational and religious organizations to conduct ceremonies and programs that day to commemorate the occasion.

I also proclaim the week beginning September 17th and ending September 23rd, 1981 as Constitution Week, and I urge all Americans to observe that week with appropriate ceremonies and activities in their schools, churches and other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of Sept. in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 81-27403
Filed 9-16-81; 4:22 pm]
Billing code 3195-01-M

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 273

[Amendment No. 204]

Food Stamp Program: Income Eligibility Standards and Amendment to Three-Person Thrifty Food Plan for Guam; Correction

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule and correction.

SUMMARY: This document amends Food Stamp Program (FSP) regulations relating to the Thrifty Food Plan (TFP). This action is necessary to correct the dollar figure for the three-person Thrifty Food Plan for Guam that was incorrectly published in final rules dated December 2 and December 19, 1980 (45 FR 79741 and 83473 respectively). This document also corrects typographical errors to certain references and the authority citation that appeared in the Federal Register publication of May 22, 1981 (46 FR 27901).

DATES: The amendment to the Thrifty Food Plan for Guam is effective, retroactively, to January 1, 1981. The corrections to the May 22, 1981 Federal Register publication are effective on September 15, 1981.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Chief, Regulations and Policy Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250; 202-447-9075.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Executive Order No. 12291. The action simply corrects typographical errors that appeared in a recent Federal Register publication and amends the Code of Federal Regulations (CFR) to correct an error that resulted from previous publications. There is no cost involved in this action, thus the action would not result in an annual effect on the economy of $100 million or more or a major increase in cost or price for consumers, industries, Federal, State or local governments, or geographical region. Additionally, this action would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the rule has been classified "not major."

This action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). The Administrator, Food and Nutrition Service, has certified that this action has absolutely no economic impact on small entities because the action simply amends or corrects typographical errors in previous rules.

On December 2, 1980, the Department published final rules (45 FR 79741) setting forth, among other things, the Thrifty Food Plan amounts to be used as the basis for determining FSP benefits in Guam, for the period of January 1-June 30, 1981. However, the dollar amount for the three-person TFP for Guam appearing in a chart on page 79743 of the December 2 publication was incorrect. The figures had been unintentionally transposed. The dollar amount should be $265 instead of $256 as published.

Further, this same typographical error was repeated when the Department published final rules on December 19, 1980 (45 FR 83473) setting forth the TFP amounts for Puerto Rico. For reproduction purposes, the December 19 rule amended the Code of Federal Regulations by not only adding the TFP amounts for Puerto Rico but by repeating the TFP amounts published on December 2 for all areas.

Since the December 19, 1980 rule superseded the December 2, 1980 rule and has already been included in the CFR (revised as of January 1, 1981), it is necessary to amend the CFR, rather than the two individual rulemakings of December 2 and December 19 to correct the error.

On May 22, 1981, the Department issued final rules (46 FR 27901) setting forth the net monthly income eligibility limits for all areas. For the convenience of the public, the preamble to that rule contained a chart which referenced the TFP amounts currently in effect for all areas. Unfortunately, the error in the dollar amount for the three-person TFP for Guam also appears in that publication. Accordingly, this action corrects the May 22, 1981 publication as well as the CFR on this issue.

This action is a technical change to correct the CFR and the May 22, 1981 rulemaking and does not result in additional program cost or restoration of lost benefits for households in Guam. Guam implemented the new standards based on information received from the Department prior to publication of the dollar amounts and that information contained the proper dollar amount.

Additionally, the May 22, 1981 publication contained two other typographical errors: the first appears at the top of column two on page 27902. The reference to the period of "July 1, 1981-July 30, 1982" should read "July 1, 1981-June 30, 1982." Also the authority citation appearing at the end of rule should read "91 Stat. 958 (7 U.S.C. 2011-2027)," in lieu of "91 Stat. 958 (7 U.S.C. 2001-2027)."

Accordingly, the following corrections are being made to 7 CFR Part 273 (Code of Federal Regulations, Jan. 1, 1981 edition) and FR Doc 81-15450 (46 FR 27901, May 22, 1981):

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

§ 273.10 [Corrected]

1. In § 273.10, Appendix A, the chart entitled "Thrifty Food Plan Amounts—September 1980" is amended by removing the figure of $256 appearing in the column marked "Guam" (third entry down) and inserting in lieu thereof the figure of $265.

2. In FR Doc. 81-15450 (46 FR 27901) dated May 22, 1981, the following corrections should be made to page 27902:

a. In the preamble, in the table appearing in the first column, Thrifty Food Plan Amounts, the dollar figure of $256 under the column entitled "Guam" (third entry down) should read $265.

b. In the preamble, at the top of the second column, line four, the reference

to "July 1, 1981–July 30, 1982" should read "July 1, 1981–June 30, 1982."

§§ 273.9 and 273.10 [Corrected]

c. In column two, four lines above the signature, the authority citation for the amendments to §§ 273.9 and 273.10 appearing as "91 Stat. 958 (7 U.S.C. 2001–2027)" should read "91 Stat. 958 (7 U.S.C. 2011–2027)."

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance, No. 10.551, Food Stamps)

Dated: September 9, 1981.

Darrel E. Gray,

Acting Administrator.

[FR Doc. 81–26831 Filed 9–14–81; 8:45 am]

BILLING CODE 3410–30–M

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7 CFR Part 282

[Amdt. No. 167]

Food Stamp Program Work Registration/Job Search Demonstration Project

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule sets forth procedures for conducting a Work Registration/Job Search Demonstration Project. This project examines six different approaches for implementing the work registration and job search provisions contained in the Food Stamp Act of 1977, as amended. The Department of Agriculture (USDA) and the Department of Labor (DOL) published proposed rules on this project in the Federal Register on October 7, 1980 (45 FR 66463).

EFFECTIVE DATE: September 1, 1981.

FOR FURTHER INFORMATION CONTACT: Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Room 658, 500 12th Street, S.W., Washington, D.C. 20250; phone (202) 447–8325; or Michelle Casey, Chief, Food Stamp Unit, Office of Work Incentive Program, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20213; phone (202) 376–7589.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available from Ms. Lipsman.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been reviewed in relation to the requirements of Executive Order 12291 and it has been determined that the action is not a major rule as defined by the Order. This rule will have an effect on the economy of less than $100 million and will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. True cost benefits of the various work registration and job search techniques to be tested cannot be determined in advance of this demonstration. The primary purpose of this demonstration is to gather data which will serve as a basis for conducting cost benefit analysis of the various work registration and job search models. The resulting adjustments made to the Food Stamp Program may produce a significant annual dollar earnings in operational costs which may well equal or exceed the cost of the demonstration. Additional dollar-savings in benefits can also be anticipated due to increases in the employment and earnings of recipients, and the elimination of persons able but not willing to work from the Program. The Department has further determined that the rule will not have an adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The proposed experimental changes in program policies and procedures have no foreseeable effects on private enterprises here or abroad. Therefore, the rule is classified as not major.

This rule has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, September 9, 1980). The Administrator, Food and Nutrition Service, has certified that this action does not have a significant economic impact on a substantial number of small entities. The proposal may have a limited impact on small business and organizations to the extent that in those sites selected for demonstration operations additional job inquires may be made by food stamp work registrants. The primary impact will be on State governments (or County governments within States to the extent that they administer the Food Stamp Program) which have volunteered to conduct the demonstration project and on food stamp work registrants within the project sites.

Introduction

Section 17(b)(1) of the Food Stamp Act of 1977 (Pub. L. 95–113, 91 Stat. 958, September 29, 1977), as amended, authorizes the Secretary of Agriculture to conduct demonstration projects for the purposes of improving the efficiency of benefit delivery and program administration. Under this authority, the Secretary of Agriculture, in cooperation with the Secretary of Labor, has undertaken a demonstration project involving the administration and operation of the food stamp work registration and job search requirements. On October 7, 1980, the two Departments published in the Federal Register proposed regulations governing project operations and a final Notice of Intent soliciting project sponsors (45 FR 66463). Fourteen comment letters were received in response to the publication. The majority of commenters (eight) were State welfare agencies. Three State employment agencies, two FNS Regional Offices, and one Federal government office also commented. This preamble discusses the comments received and changes made as a result of those comments. Portions of the preamble from the October 7, 1980 Federal Register (45 FR 66463) are also reprinted for the purpose of clarity.

Three State welfare agencies expressed general support for testing new approaches to work registration/job search operations; one State employment agency believed that conducting the project indicates the ineffectiveness of the current system. Three State welfare agencies objected to the timing of the proposed demonstration project regulations, i.e., publication prior to finalization of the ongoing work registration/job search regulations; while one State welfare agency suggested that the demonstration project be completed prior to implementation of the ongoing work registration/job search regulations. As noted in the preamble to the October 7, 1980 proposed project regulations, the Departments believed that the proposed requirements for the ongoing work registration/job search system (as published in the Federal Register on August 8, 1980) represented a reasonable option for an operational system. (Those proposed requirements were published in final form on January 16, 1981 (46 FR 4622).) It was recognized, however, that other variations might be more desirable. To comply with the legislative mandate for a job search requirement, the Departments decided to simultaneously establish an operational system and conduct a demonstration project which would assess the results of both the ongoing system and variations to these procedures. Given that the final evaluation report on the results of the

demonstration project is not due until early 1983, postponing nationwide implementation of any job search requirement until that time would not have met congressional intent.

Demonstration Models

The proposed regulations established six different demonstration models. The individual models varied three major elements:

(1) The method of work registration;

(2) The provider of work registration and job search services; and

(3) The nature and intensity of the job search requirements.

One State employment agency and two State welfare agencies expressed dissatisfaction with the proposed models, believing them to be too limited and no real improvement over current operations. The State welfare agencies, in making their suggestions for additional models, proposed either enrichments to the operational requirements of the existing models or proposed that local agencies be allowed to develop a model suited to their unique environments. The models were designed to permit some individual tailoring. The Departments intended to create a basic operational structure, within which procedures could be developed and resources allocated to fit the needs of the locality. Subcontracting of specific parts of the operational requirements, i.e., counselling, testing, or the establishment of formal and/or informal linkages with other related service groups, was not discouraged.

One commenter suggested that the ongoing work registration/job search regulations be considered as one of the models. While it was originally intended that sites operating under the ongoing work registration/job search procedures would serve as control groups, the Departments have decided instead to consider these procedures as a model. However, rather than introducing a seventh model, we have revised the operational procedures of Model A to include both the work registration and job search requirements contained in the ongoing regulations. Thus, the models would be as follows:

Model A would operate in accordance with the procedures contained in the ongoing work registration and job search regulations, as finalized in the January 16, 1981 rulemaking. The objective of this model would be to test the effectiveness of the ongoing regulations.

Model B would maintain the ongoing work registration and job search provisions. A Job Finding Club would, however, be introduced as an alternative job search requirement for those work registrants deemed to be eligible. The objectives of this model would be to determine both how successful the Job Finding Club technique is in securing employment for food stamp work registrants and the effectiveness of the Job Finding Club in reducing the costs of the Food Stamp Program.

Model C would require non-exempt food stamp applicants to register for work in person at the SESA office as a condition of eligibility, i.e., prior to certification for food stamp benefits, but would not require any job search activity. Applicant households' would not be certified to receive program benefits until all persons required to register for work had registered in person at the SESA office and proof of such registration was provided to the State agency. The objective of Model C, then, is to test if program costs can be reduced by ensuring earlier contact with the SESA.

Model D would link in-person registration at the SESA office with the ongoing job search requirements. The objective of this model would be to test the combined effectiveness of early contact with the SESA, and of providing work registrants with a directed approach to seeking employment.

Model E would combine in-person registration with the Job Finding Club approach. The objective of this model would be to test the effectiveness of establishing rigorous requirements for both work registration and job search.

Model F would establish the State welfare agency as the provider of job related services. The State welfare agency would assume all responsibilities associated with registration for work, providing job information, and job search monitoring. The objective of this model would be to test whether a social service agency would be effective in providing employment assistance which meets the needs of food stamp participants subject to the work registration and job search requirements.

General comments on the models varied. One State employment agency supported Model B as providing maximum service to clients; one State welfare agency supported Model D as optimum for getting job ready people into employment; one State welfare agency opposed Model F as cost ineffective. In reviewing applications of potential sponsors, the Departments recognized that all models were not equally well accepted. Consequently, as provided in these regulations, the Departments may not use all of the above models in this demonstration project.

Job Finding Club

Several specific comments on the operational procedures for the Job Finding Club (JFC) were received. One FNS Regional Office suggested that specific criteria for assignment to the JFC be established, while one State welfare agency suggested that there be random assignment to either a JFC or job search Category I to avoid placement that might introduce bias into the study. The proposed regulations provide needed flexibility to the sponsoring SESA. Knowing that a JFC may not be forming at the time of a work registrant's assessment interview, the SESA may either have the registrant conduct his or her own job search (depending on labor market conditions) or the work registrant could wait until the next JFC begins. Other comments recommended that the JFC be required for two months (see discussion on length of job search below) and that the evaluation include a verification that reported employer contacts were made. The latter suggestion was rejected since the nature of certain job contacts often precludes verification (e.g. a worker reports to an employer who is not hiring on that day).

In-Person Registration

Four State welfare agencies and one FNS Regional Office commented on the procedures developed for the in-person registration component. Three commenters opposed the exemption given to persons qualifying for expedited service since they believed that most work registration problems concern these households. In response to these comments, the final rules exempt persons qualifying for expedited service only if the SESA office is more than a two hour round trip by available public or private transportation from the State welfare agency office. The Departments believe that the requirement on the SESA to provide the registrant with separate documentation upon registration ensures that expedited service requirements and in-person registration can be simultaneously accomplished. This separate documentation can be taken back to the food stamp office, when the SESA office is unable to expeditiously interview the registrant, so that food stamp expedited service can be provided. Another comment related to the requirement that the assessment interview be conducted within 72 hours if the applicant cannot be seen on the day of initial contact with the SESA. The commenter recommended changing the 72 hour requirement to three working days to alleviate scheduling problems caused by weekends. This suggestion has been incorporated in the final rule.

An additional comment addressed the timing requirements for notification of the State welfare agency by the State employment agency. The majority of these time frames are in keeping with those established for the Work Incentive Program (WIN) and the Departments believe them necessary to ensure prompt application processing.

Job Search

In the proposed rulemaking of August 8, 1980 (45 FR 53067) the job search period was established at a maximum of eight weeks within each six-month registration period. Commenters on that rulemaking suggested that the maximum job search period be changed to conform with Pub. L. 96-258 (the 1980 amendments). This law amended the Social Security Act to provide that persons must search for employment as a condition of eligibility for benefits under the Aid to Families with Dependent Children (AFDC) Program. The length of the job search period for AFDC was mandated in the law to be no more than eight weeks in a year.

Both the Department of Agriculture and the Department of Health and Human Services are continually making an effort for greater compatability of food stamp and AFDC regulations whenever practical and feasible to do so. Therefore, the Department adopted the requirement for an 8-week job search effort over the course of a year in the final ongoing work registration/job search regulations. Hence, for the purposes of the demonstration project work registrants would also be subject to an eight-week maximum job search period over a year's time. The State employment agency or State welfare agency, as appropriate to the model, would have flexibility in determining whether the job search period was to be a continuously applied eight-week period or spread out over a longer period of time.

Demonstration Project Design

Four State welfare agencies and one FNS Regional Office had comments on the demonstration project design. One primary issue was the proposed random split of work registrants into control and experimental groups. This design feature was opposed because: (1) it effectively limited the participation of rural areas; (2) contamination of the results could occur unless all work registrants were included; and (3) the lack of any work registration requirement for a segment of the population was perceived as creating credibility problems. The evaluation design established for use in the demonstration project has shown itself effective in past and ongoing demonstrations conducted by the Department of Health and Human Services (HHS), the Department of Labor (DOL) and numerous other public and private agencies. The random division of project participants into experimental and control groups is widely accepted by researchers as the best procedure to ensure the integrity of and ability to interpret demonstration project results. Under the proposed rules, the random assignment of work registrants into treatment and control groups was scheduled to occur during the last 12 months of the project. However, under the final regulations, the random split into control and experimental groups will take place during the entire period of demonstration project operations for all models.

One commenter suggested that the project be operational for 12 rather than 18 months. The 18-month period has been established to allow six months for start-up during implementation—making sure the "bugs" are worked out of the system prior to collecting impact information. Once this has been accomplished, the Department believes that a minimum of 12 months of data is necessary for a thorough evaluation.

Quality Control

Several commenters addressed the procedures established in the proposed project regulations related to quality control. The proposed regulations stated that the State agency would be responsible for taking whatever action was necessary to exclude errors related to the demonstration from the quality control error rate. These procedures have been reviewed by the Department in light of the emergency final regulations regarding quality control which were published in the Federal Register on December 9, 1980 (45 FR 81030). In accordance with those regulations, the Department has determined that the operational procedures related to the demonstration project do not have a significant effect on the certification process. Hence, households participating in the demonstration project which are subsequently selected as part of the quality control sample shall be reviewed using normal procedures and the results of such reviews included in the cumulative allotment error rate. Due to this determination, the previous section on quality control is omitted from these final regulations.

PART 282—DEMONSTRATION, RESEARCH AND EVALUATION PROJECTS

Accordingly, Part 282 is amended by adding a new § 282.13 which reads:

§ 282.13 Work registration/job search demonstration project.

(a) *Purpose.* These regulations establish the procedures under which the Work Registration/Job Search Demonstration Project shall operate. Under this project, household members not exempt from the work registration requirements of § 273.7(b) shall be required to participate in a series of tests which are variations of the rules on work registration and job search that were published by the Department of Agriculture as final on January 16, 1981 (46 FR 4622). (Such finalized rules will, hereafter, be referred to as "the ongoing work registration and job search requirements".) These tests are designed to assess alternative methods for administration of the work registration/job search requirements which are mandated by Section 6(d) of the Food Stamp Act of 1977, as amended.

(b) *Statutory requirements to be waived.* Subsection 17(b)(1) of the Food Stamp Act of 1977 authorizes the Secretary of Agriculture to waive any requirement of the Act to the degree necessary to conduct a demonstration project, as long as the project does not lower or further restrict the income or resource standards or benefit levels of project participants. Under the Work Registration/Job Search Project, the requirements of Subsection 6(d) pertaining to work registration and job search may be waived at demonstration project sites during specific time intervals. The effective dates of each waiver will be publicized at the project sites to provide participants with specific knowledge of the occurrence. The limitations specified in Section 16 on Federal cost-sharing of administrative expenses are also waived. Other requirements may be waived if the Secretary deems it to be necessary, consistent with the limitations on the waiver authority provided in Subsection 17(b)(1). Any further waivers will be published in the Federal Register. The Secretary reserves the right to combine existing elements in various techniques or models, or to not implement/fund all the models described herein, as may be deemed appropriate to the realization of project objectives.

(c) *Regulatory requirements.* All current Food Stamp Program regulations, including the ongoing work registration or job search regulations, except as specifically provided or except where inconsistent with any rules governing this project, shall govern the operation of this project.

(d) *Areas of operation.* The Work Registration/Job Search Project shall be operated in up to 20 project sites for a period of approximately eighteen months beginning on or about September 1, 1981. Project operators shall be selected by the Food and Nutrition Service (FNS) and the Department of Labor (DOL) based on

applications submitted by State Employment Security Agencies (SESA's) wishing to implement Models A, B, C, D, or E and applications submitted by State agencies wishing to implement Model F. For all site operations, the concurrence of the cooperating State agency or SESA shall be obtained.

(e) *Demonstration Models.* (1) At those sites chosen to operate Model A, work registrants shall be subject to the ongoing work registration and job search regulations. During the operation of the demonstration project, work registrants shall be randomly split into treatment and control groups. The treatment group shall be subject to the demonstration requirement during the entire demonstration period; the control group shall not be subject to either work registration or job search requirements (§ 273.7) during the same period. The procedure of randomly assigning work registrants to treatment and control groups during the demonstration, and the application of model requirements to only the treatment group during the entire project shall be implemented at each of the sites selected to operate the remaining five demonstration models described below.

(2) At those sites chosen to operate Model B, work registrants in the treatment group shall be subject to the ongoing regulations regarding work registration and job search. Selected work registrants shall, however, be subject to the requirements of the Job Finding Club, as discussed in paragraph (f) of this section, instead of the normal job search requirements.

(3) At those sites chosen to operate Model C, all work registrants in the treatment group shall be subject to the in-person registration requirements discussed in paragraph (g) of this section. No job search requirement shall be imposed.

(4) At those sites chosen to operate Model D, work registrants in the treatment group shall be required to register in-person at the SESA office, as discussed in paragraph (f) of this section, and shall be subject to the ongoing job search requirements.

(5) Work registrants residing in those areas selected to operate Model E which are selected for the treatment group shall be subject to in-person registration (as discussed in paragraph (g) of this section), the ongoing job search requirements, and, if selected, the requirements of the Job Finding Club, which are detailed in paragraph (f) of this section, in lieu of the ongoing job search requirements.

(6) In those sites where the State welfare agency has been chosen to be job service provider (Model F), the basic requirements for work registrants shall be unchanged. System responsibilities shall be changed to the extent that ongoing responsibilities assigned to the SESA in § 273.7, shall be assumed by the State welfare agency.

(f) *Job Finding Club.* At those demonstration sites where the Job Finding Club is in operation, the ongoing job search requirements shall be waived for those work registrants selected to participate in the Job Finding Club. The procedures established in this paragraph shall be substituted in their place.

(1) Job Finding Club Assignment.

(i) During the initial assessment interview, or for those work registrants currently participating in job search, at the time of a subsequent interview, the SESA shall determine which work registrants shall be required to participate in the Job Finding Club. Persons not selected to participate in the Job Finding Club shall be required to meet the ongoing job search requirements established in § 273.7(e).

(ii) At the time that the work registrant is selected to participate in the Job Finding Club, the SESA shall explain to the work registrant the requirements of the Job Finding Club and the penalties for failure to comply with these requirements. In addition, the work registrant shall be provided with written information on the Job Finding Club which shall include the dates, time(s) and location of meetings.

(2) Operational Procedures. Specific operational procedures for the Job Finding Club may vary from site to site. Participants shall, however, be subject to the following basic requirements:

(i) Report to the Job Finding Club Monday through Friday, except for holidays, until suitable employment (§ 273.7(i)) is secured which exempts the work registrant from the work registration requirements (§ 273.7(b)(viii)), or for a maximum of eight weeks, whichever occurs sooner. Failure to report to the Job Finding Club on more than two occasions per month, without good cause (§ 273.7(m)), shall subject the household to disqualification as established in § 273.7(g);

(ii) Comply with the directions of the Job Finding Club Counselor regarding participation in Club activities and contact with prospective employers;

(iii) Report for interviews with prospective employers; and

(iv) Accept a bona fide offer of suitable employment, as defined in § 273.7(i).

(g) *In-person Registration.* At those sites where in-person registration at the SESA office is required, the work registration requirement shall operate in the following manner:

(1) Persons required to register. Based on information contained in the application and other information obtained during the application process, the State agency shall determine which household members are required to register for employment. Each household member who is not exempted by § 273.7(b) shall register in person at the SESA at the time of initial application for program benefits and once every six months thereafter. Registration for employment at the appropriate SESA office shall be completed prior to household certification. In those instances where households qualify for expedited service, as discussed in § 273.2(i), the in-person work registration requirement shall be waived for the initial issuance if the SESA office is more than a two hour round trip by available public or private transportation, from the State welfare agency office where application is made. In such cases, in-person registration shall be completed prior to the issuance of any subsequent allotments. The expedited service time limits shall run from the time that the State agency receives notice that the in-person registration is completed, as set forth in paragraph (g)(3)(iii) of this section, or the household has returned to the food stamp office with proper documentation as set forth in paragraph (g)(3)(ii) of this section, whichever occurs earlier.

(2) State agency responsibilities.

(i) The State agency shall be responsible for informing all applicants or potential applicants of the requirement that all non-exempt persons must register in-person at the SESA office as a condition of eligibility. This information shall be provided in a manner which would allow potential applicants, if they so choose, to pre-register at the SESA office prior to the food stamp certification interview.

(ii) Upon reaching a determination that a household member is required to register, the State agency shall explain to the applicant the procedures for registering for work at the SESA (including the fact that the applicant may proceed immediately to the SESA office and register and same day that the applicant visits the State agency office), and the consequences of failing to register. Such information shall be both explained orally and provided in written form.

(iii) The State agency shall complete, to the extent possible, the certification process at the time of the food stamp interview so that the application can be readied for decision-making once the in-person registration requirement is completed.

(iv) The State agency shall provide a referral form to each person required to register for work and shall direct the applicant to the appropriate SESA.

(v) The State agency shall work with the SESA to ensure that persons subject to the work registration requirement are expeditiously interviewed by the SESA.

(vi) Upon receipt of notification from the SESA or directly from the applicant that all persons within a household who are subject to the work registration requirement have registered, the State agency shall complete application processing.

(vii) If the State agency does not receive notification of the applicant's registration, the household shall not be certified until registration occurs. The application shall instead be processed in accordance with the procedures discussed in § 273.2(h)(2), for delays caused by the household. In addition, if an applicant registers but subsequently fails, without good cause, to comply with the interview requirement or additional work requirements imposed at the time of the interview, and the State agency office receives notification of this before the applicant has been certified, the application shall be processed in accordance with the procedures in § 273.2(h)(2) for delays caused by the household.

(3) SESA responsibilities. The SESA shall be responsible for the following activities:

(i) Establishing, with the State agency, procedures to ensure the expeditious interviewing of food stamp applicants. To the extent possible, such interviews shall be scheduled to occur on the same day that the applicant makes initial contact with the SESA, but they must occur no later than three working days from the day of initial contact with the SESA office;

(ii) Allowing food stamp applicants to register on the same day as their initial contact with the SESA, and providing applicants with documentation of their registration on the same day. If the interview appointment is scheduled for the same day, the registration form may be completed during the interview. If it is scheduled for a later day, applicants shall be allowed to register at the time of the initial contact, and documentation of registration shall be provided at that time. By providing such documentation, the applicant may return, if he or she chooses, to the State agency to ducument his/her registration without waiting for the interview appointment;

(iii) Notifying the State agency, within one working day, of all food stamp applicants registered;

(iv) Conducting an interview. At the time of the interview, the work registrant shall be provided all services normally available to "walk-in" clientele, including job market information, the Job Bank, and referral to available employment;

(v) Recontacting those registrants failing to report for their scheduled interview to arrange a second interview appointment; and

(vi) Notifying the State agency, within five working days, of those food stamp applicants who fail, without good cause, to comply with the interview requirement or any additional work requirements imposed at the time of the interview.

(4) Household member responsibilities. Those persons identified by the State agency as required to register for work shall be responsible for the following activities:

(i) Reporting to the SESA for an interview;

(ii) Completing a work registration form at the time of contact with the SESA;

(iii) Returning to the State agency with a notification of registration, if they so choose; and

(iv) Complying with the additional work requirements of § 273.7(f).

(h) *Funding.* FNS will provide both State agency and SESA sponsors with funding equal to 100 percent of costs associated with the project which are above those normal and customary to administration of the ongoing work registration and job search requirements.

(i) *Records and reports.* Involved State agencies and SESA's shall maintain records on both model operations and results in a manner prescribed by FNS and DOL.

(j) *Monitoring and evaluation.* FNS and DOL shall jointly establish procedures for monitoring SESA's and State agencies' compliance with the requirements of § 272.13. DOL shall assume primary monitoring responsibility for those sites chosen to operate Models A through E and FNS shall assume primary monitoring responsibility at those sites chosen to operate Model F The evaluation of the project shall be conducted by an independent contractor. The State agency and SESA shall, upon reasonable notification, provide the evaluation contractor with access to all information pertaining to project operations.

Note.—The reporting and recordkeeping requirements contained in this rule are being submitted for approval by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act of 1942.

(91 Stat, 958, as amended (7 U.S.C. 2011–2027)).

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps)

Dated: July 30, 1981.

G. William Hoagland,

Administrator, Food and Nutrition Service.

Dated: September 8, 1981.

Albert Angrisani,

Assistant Secretary for Employment and Training.

[FR Doc. 81-26827 Filed 9-14-81; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 324]

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 September 20–26, 1981. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 20, 1981.

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

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

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit

Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

The committee met again publicly on September 15, 1981, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues strong.

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

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

Section 910.624 is added as follows:

§ 910.624 Lemon Regulation 324.

The quantity of lemons grown in California and Arizona which may be handled during the period September 20, 1981, through September 26, 1981, is established at 235,219 cartons.

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

Dated: September 16, 1981.

D. S. Kuryloski,

Deputy Director,

Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81-27506 Filed 9-17-81; 12:09 pm]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins; Correction

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule; Correction.

SUMMARY: REA hereby amends Appendix A—REA Bulletins to issue a pen and ink revision to Bulletin 345-73, REA Specification for All Weather Pressure Sensitive Vinyl Tape, PE-68, to correct errors incorporated during printing. The bulletin containing the errors was issued November 2, 1976. Shortly thereafter REA discontinued the listing of this product, so that a correction was not deemed justifiable. With the recent proposal to reintroduce the listing of this tape, it was felt that the minor errors should be corrected. As a result, the change is being issued at this time.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3827.

Dated: September 4, 1918.

John H. Arnesen,

Assistant Administrator—Telephone.

[FR Doc. 81-26791 Filed 9-14-81; 8:45 am]

BILLING CODE 3410-15-M

Food Safety and Inspection Service [1]

9 CFR Parts 303 and 381

[Docket No. 81-029]

Federal Meat and Poultry Products Inspection; Exemptions for Retail Stores

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Federal meat and poultry products inspection regulations to clarify the procedure by which the Agency revises its retail exemption limits. For an establishment to be considered "retail" and thus exempt from routine Federal inspection requirements, it may sell only a limited amount of meat and poultry products to nonhousehold consumers. This exemption is expressed in terms of a dollar limitation subject to annual revision as indicated by changes in the price of meat and poultry products according to the Consumer Price Index. The current dollar limitations were recently increased by the administrator and published in the Federal Register on May 15, 1981, (46 FR 26760-26761). The current dollar limitation is $27,800 for meat products and $22,200 for poultry products. This final rule amends the regulations by deleting outdated dollar limitations, and expressly stating that whenever the dollar limitations for retail exemptions are adjusted, the Agency will publish a notice in the Federal Register announcing the adjustment and the new dollar limitation.

EFFECTIVE DATE: September 18, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. John Prucha, Director, Slaughter Inspection Standards and Procedures Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3219.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has made an initial determination that this proposed rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises in domestic or export markets.

This docket has been reviewed for cost effectiveness pursuant to Departmental guidelines for implementing Executive Order 12291. It is anticipated that this final rule will not give rise to any additional costs as it makes no new policy requirements, but rather merely clarifies the existing regulations.

Effect on Small Entities

Donald L. Houston, Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). There would be no economic impact on small entities since this rule merely clarifies the existing regulations.

Background

Federal inspection of meat and poultry products prepared for sale and distribution in commerce and in certain designated States is required by law and administered by the Food Safety and Inspection Service (FSIS). However,

[1] Pursuant to the reorganizational plans outlined in USDA Secretary's memo 1030-1, issued June 19, 1981, the Food Safety and Quality Service has become the Food Safety and Inspection Service. A notice detailing the agency's reorganization is now being drafted for later publication.

section 301(c)(2) of the Federal Meat Inspection Act (21 U.S.C. 661(c)(2)) and section 5(c)(2) of the Poultry Products Inspection Act (21 U.S.C. 454(c)(2)) state that the general requirement of routine Federal inspection "* * * shall not apply to operations of types traditionally and usually conducted at retail stores * * * when conducted at any retail store * * * for sale in normal retail quantities * * * to consumers * * *."

The Agency has enacted extensive regulations on how it determines whether stores qualify for this exemption from routine Federal inspection (9 CFR 303.1(d) and 381.10(d)). Whether or not an establishment is deemed by the Agency to be an exempt retail establishment depends, in part, upon the level of its trade with nonhousehold consumers, such as hotels, restaurants and similar institutions. Accordingly, Federal meat and poultry products inspection regulations have expressed in terms of dollars the maximum amount of meat and poultry products which may be sold to nonhousehold consumers if the establishment is to remain an exempt retail establishment.

The first such retail limitation was for sales of meat products to nonhousehold consumers. The limitation was established in 1970 and set at $10,000. In 1972 the poultry retail limitation was established and set at $10,000.

In 1973 the retail limitations for both meat and poultry products were raised to $18,000 in order to reflect actual price increases and to allow for ongoing price fluctuations and unexpected marketing changes.

On April 25, 1980, the Agency published a final rule in the Federal Register (45 FR 27919–27922) raising the annual dollar limitations to $27,000 for meat products and to $21,100 for poultry products. These increases also reflected actual price increases for meat and poultry products. In addition to increasing the annual dollar limitations, the Agency amended the Federal meat and poultry inspection regulations to provide that the dollar limitations on the sales of meat and poultry products by exempt retail stores to nonhousehold consumers will be automatically adjusted during the first quarter of each calendar year, whenever the Consumer Price Index, published by the Bureau of Labor Statistics, Department of Labor, indicates a change of at least $500, upward or downward (9 CFR 303.1(d)(2)(iii) and 381.10(d)(2)(iii) (45 FR 27919–27922)).

The purpose of this provision was to obviate the need for formal rulemaking proceedings each time an adjustment in the dollar figure is required to keep the actual volume of product at roughly constant levels. Instead, the Agency would merely publish a notice announcing any adjustment in the dollar limitations in the Federal Register and the new limitations would become effective upon publication.

Accordingly, on May 15, 1981, the Agency published a notice in the Federal Register (46 FR 26760–26761) announcing that the Consumer Price Index for 1980 indicated an increase in the price of meat products of $800, and and an increase in the price of poultry products of $1,100, and that the Agency was therefore adjusting the dollar limitations for these products pursuant to the regulations. The adjustments raised the dollar limitations to $27,800 for meat products and to $22,200 for poultry products.

The regulations, however, still retained the dollar amounts for retail limitations set by the April 25, 1980, amendment.

In order to avoid any possible confusion as to what the current annual dollar amounts for retail limitations are for the calendar year 1981, the Agency is amending §§ 303.1(d) and 381.10(d) of the Federal meat and poultry products inspection regulations (9 CFR 303.1(d) and 381.10(d)) by deleting the actual dollar amounts stated therein for limitations on sales of meat and poultry products, respectively, to nonhousehold consumers by retail establishments exempt from routine Federal inspection.

Further, the existing regulations do not clearly specify how the agency will automatically revise the dollar limitations. Therefore, this final rule will also amend the regulations by expressly stating that whenever adjustments in the dollar limitations are indicated by the consumer price index, the Agency will publish a notice in the Federal Register announcing the adjustments and the new dollar limitations.

For these reasons, the Federal meat and poultry products inspection regulations are amended as set forth below.

PART 303—EXEMPTIONS

1. The authority citation for Part 303 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; (21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 466–466k).

2. Section 303.1(d)(2)(iii)(*b*) is revised to read as follows:

§ 303.1 Exemptions.

* * * * *

(d) * * *

(2) * * *

(iii) * * *

(*b*) At least 75 percent, in terms of dollar value, of total sales of product represents sales to household consumers and the total dollar value of sales of product to consumers other than household consumers does not exceed the dollar limitation per calendar year set by the Administrator. This dollar limitation is a figure which will automatically be adjusted during the first quarter of each calendar year, upward or downward, whenever the Consumer Price Index, published by the Bureau of Labor Statistics, Department of Labor, indicates a change in the price of this same volume of product which exceeds $500. Notice of the adjusted dollar limitation will be published in the Federal Register.[1]

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for Part 381 reads as follows:

Authority: Sec. 14, Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962, (7 U.S.C. 450); and subsection 21(b) of the Federal Water Pollution Control Act; as amended by Public Law 91–224 and by other laws (33 U.S.C. 1171(b)).

4. Section 381.10(d)(2)(iii)(*b*) is revised to read as follows:

§ 381.10 Exemptions for specified operations.

* * * * *

(d) * * *

(2) * * *

(iii) * * *

(*b*) At least 75 percent, in terms of dollar value, of total sales of product represents sales to household consumers and the total dollar value of sales of product to consumers other than household consumers does not exceed the dollar limitation per calendar year set by the Administrator. This dollar limitation is a figure which will automatically be adjusted during the first quarter of each calendar year, upward or downward, whenever the Consumer Price Index, published by the Bureau of Labor Statistics, Department of Labor, indicates a change in the price of this same volume of product which exceeds $500. Notice of the adjusted

[1] The dollar limitation currently in effect may be obtained by contacting Dr. John Prucha, Director, Slaughter Inspection Standards and Procedures Division, Technical Services, Food and Safety Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447–3219.

dollar limitation will be published in the Federal Register.[1]

* * * * *

These amendments are merely for purposes of clarification. The amendments do not make any changes in Agency policy nor will they substantially affect any member of the public. Further, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public rulemaking procedures concerning these amendments are impracticable and unnecessary and good cause is found for making these amendments effective less than 30 days after publication in the Federal Register.

Done at Washington, DC, on September 8, 1981.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 81-27215 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-DM-M

[1]The dollar limitation currently in effect may be obtained by contacting Dr. John Prucha, Director, Slaughter Inspection Standards and Procedures Division, Technical Services, Food and Safety Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-3219.

DEPARTMENT OF ENERGY

10 CFR Ch. II

Administrative Procedures and Sanctions: Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of interpretations.

SUMMARY: Attached are interpretations (Appendix A) and responses to petitions for reconsideration (Appendix B) issued by the Office of General Counsel of the Department of Energy (DOE) during the period May 1, 1981 through August 31, 1981.

Appendix C identifies those requests for interpretations which have been dismissed during the same period.

FOR FURTHER INFORMATION CONTACT: Diane Stubbs, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6B234, Forrestal Building, Washington, D.C. 20585, (202) 252-2931.

SUPPLEMENTARY INFORMATION: Interpretations issued by the DOE are published in the Federal Register in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These interpretations respond to formal written requests for interpretation. They depend for their authority on the accuracy of the factual statement used as a basis for the interpretation and may be rescinded or modified at any time. Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them. An interpretation is modified by a subsequent amendment to the regulation or ruling interpreted thereby to the extent that the interpretation is inconsistent with the amended regulation or ruling. The interpretations published below are not subject to administrative appeal.

Certain of the interpretations published below pertain to provisions of the Mandatory Petroleum Allocation and Price Regulations. Effective at 12:01 a.m., January 28, 1981, Executive Order 12287, 46 FR 9909 (January 30, 1981), exempted all crude oil and refined petroleum products from controls imposed by these regulations. However, because the various issues presented for review involved past years governed by these regulations or provisions specifically exempted from decontrol, it was both appropriate and necessary to resolve the issues for the parties requesting the interpretation.

The responses to petitions for reconsideration published herein have been issued in accordance with the provisions set forth in 10 CFR 205.85(f). It should be emphasized that the reconsideration procedure is not the equivalent of an administrative appeal, but merely provides a mechanism to insure that no inadvertent errors are made which affect the validity of the interpretation.

Issued in Washington, D.C. on September 11, 1981.

Merrill F. Hathaway, Jr.,

Acting Assistant General Counsel for Interpretations and Rulings.

Appendix A—*Interpretations*

No.	To	Date	Category	File No.
1981-15	Energy Services, Inc.	May 29	Price	A-548.
1981-16	Green Hills, Inc.	May 29	Conservation	A-620.
1981-17	Murphy Oil Co.	June 15	Allocation	A-635.
1981-18	Union Carbide Corp.	June 23	Allocation and Price	A-606.
1981-19	D. H. Hunt	June 24	Price	A-578.

Interpretation 1981-15

To: Energy Services, Inc.

Rules and Regulations Interpreted: 212.72, 212.74; 212.79 Rulings 1975-15; 1977-1

Code: GCW-Part 212, Subpart D; Definition of Property, Unitization; Newly Discovered Crude Oil

Facts

Kerr McGee is the full-interest lessee of seven gas and gas condensate leases in Canadian County, Oklahoma.[1] These seven oil and gas leases were assigned by Kerr-McGee to Energy Services, Inc., (ESCO) on March 29, 1978.[2] ESCO acquired the entire leasehold interest in and under these leases. In addition, ESCO is assignee to the full gas and gas condensate leasehold interests assigned by (1) W.M. Bryan, Inc., Lot 6 (½ interest) of Section 7-12N-6W, Canadian County, Oklahoma May 3, 1977; and (2) W.M. Bryan, Inc., Lot 6 (½ interest) of Section 7-12N-6W,

[1]The leases are:

(1) Verna A. Leighton and Authur B. Leighton, W/2 SE/4, Section 7-12N-6W, Canadian County, Oklahoma, May 24, 1972;

(2) Esther M. Hurst, E/2 SE/4, Section 7-12N-6W, Canadian County, Oklahoma, May 24, 1972;

(3) Wilbur C. Hall and Lois Hall, S/2 NE/4 and NW/4 NE/4 and Lot 5 and Lots 1 and 2, E/2 NW/4 of Section 7-12N-6W, Canadian County, Oklahoma, (except 80 acres comprising the land covered by leases number 4, 5 and 6 herein), October 6, 1972;

(4) Darrel L. Cooksey and Elizabeth Cooksey, Tract containing 10.24 acres in NW/4 of Section 7-12N-6W, Canadian County, Oklahoma, January 14, 1975;

(5) Cooksey and Sons Farms, Inc., Tract containing 24.76 acres in NW/4 Section 7-12N-6W, Canadian County, Oklahoma, January 14, 1975;

Continued

(6) Dorothy Jean C. Hucek and Raymond Hucek, Tract containing 45 acres in NW/4 of Section 7-12N-6W, Canadian County, Oklahoma, January 11, 1975;

(7) Gary Lee Evans and Margaret Evans, Lots 3 and 4 and E/2 SW/4, Section 7-12N6W, Canadian County, Oklahoma, January 4, 1975.

[2] Executive Order 12287, 46 FR 9909 (January 30, 1981) exempted all crude oil and refined petroleum products from the price and allocation controls adopted pursuant to the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 751 *et seq.*). This order was effective at 12:01 a.m., January 28, 1981. Because ESCO must determine its past compliance with crude oil pricing requirements, imposed by the Mandatory Petroleum Price Regulations in order to properly determine prices charged in past transactions, it is necessary to resolve the issues presented in this request.

Canadian County, Oklahoma, May 3, 1977.

Through these assignments, ESCO obtained the entire gas and gas condensate leasehold estate in and under all of Section 7, Township 12 North, Range 6 West, Canadian County, Oklahoma, for the production of gas and gas condensate. These leases represent the first and only leases ever entered with regard to the premises comprising Section 7. No crude oil production had ever taken place on these premises prior to drilling by ESCO in 1977. ESCO is, therefore, a "producer" of crude oil subject to the provisions of 10 CFR Part 212, Subpart D.

The Oklahoma Corporation Commission (the Commission) established Section 7, as a single, 640-acre, drilling and spacing unit on September 24, 1974, by Order No. 107775 for the production of gas and gas condensate from the Oswego, Cherokee and Hunton formations. On May 24, 1977, the Commission established Section 7 as a single drilling and spacing unit by Order No. 130956 for production from the Mississippi formation. On May 23, 1977, ESCO began drilling the Verna No. 1 well (the Verna well) in the center of the SE/4 of Section 7 to establish the well as the unit well pursuant to the Commission's Orders. The Verna well was completed and became a commercial producer of commingled hydrocarbons in the Cherokee, Hunton and Mississippi formations on October 7, 1977. Production from the Verna well has been continuous to the present time.

After the Verna No. 1 well had a production history established, ESCO found that the Verna well could not adequately and efficiently drain the 640 acre drilling unit due to the porous and permeable characteristics of the Cherokee, Hunton and Mississippi formations. ESCO determined that three additional wells would be necessary in Section 7 in order to recover all of the hydrocarbons underlying Section 7 to permit the parties owning an interest in Section 7 to receive their share of the production.[3] ESCO therefore applied to the Commission for a new Order.

Upon a finding by the Commission that a drilling and spacing unit for a prospective common source of supply cannot be adequately drained by the single state authorized well within the boundary of the unit, the Commission may, among other options, permit the original well to remain intact and amend the original orders to permit additional wells to be drilled on the unit. On September 12, 1978, the Commission issued Order No. 144872 allowing the drilling of three additional wells in Section 7, each one at a legal location within each of the three remaining quarter sections pursuant to the Commission's Order. This Order, however, did not reform the boundaries of the Section 7 unit. *See* Order No. 144872, Finding No. 4, *infra* at p. 1.

Pursuant to this Order, ESCO began drilling the Hall No. 1 well (the Hall well) on December 7, 1978, in the NE 4 of Section 7. Drilling was completed January 4, 1979, and the well began production of hydrocarbons in the Hunton and Mississippi formations. Subsequently, ESCO drilled and completed the Cooksey No. 1 well (the Cooksey well) in the NW 4 of Section 7 in the same formations. First production from the Hall and Cooksey wells commenced subsequent to January 1, 1979. ESCO planned to begin drilling the fourth and final well authorized by Order No. 144872 in the SW 4 of Section 7 in June 1980.

Issues

1. Was Section 7 a single property as that term is defined in 10 CFR 212.72?

2. Did crude oil produced from each of the wells drilled in 1978, 1979, and 1980 qualify as "newly discovered crude oil" pursuant to 10 CFR 212.79?

Interpretation

Section 7 was a single property for purposes of the Mandatory Petroleum Price Regulations, based upon the unitization of the entire 640 acres by the Oklahoma Corporation Commission.

The term "property" is defined in 10 CFR 212.72 in part as "the right to produce domestic crude oil, which arises from a lease or from a fee interest." 39 FR 1924 (January 15, 1974), effective January 14, 1974. The definition was amended once in 41 FR 4931 (February 3, 1976), effective February 1, 1976, before it was published in its present form in 41 FR 36171 (August 26, 1976):

> *"Property" means the right to produce domestic crude oil,* which arises from a lease or from a fee interest. A producer may treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil, provided that such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation that is separate and distinct from, and not in communication with, any other producing formation. (Emphasis added.)

The property concept has been the subject of several rulings and interpretations. In *Rustex Oil, Inc.*, Interpretation 1978-5, 45 FR 12852 (March 28, 1978), for example, the agency stated that "property" is synonymous with the physical premises described in a lease or fee interest and is not to be interpreted as a reference to a particular lessee's rights under a particular lease.

However, the DOE also has recognized that events subsequent to 1972 establish properties different from those in existence in 1972. In Ruling 1975-15[4] the agency stated that "where a unit consists of several leases that were unitized in 1973, *the property consists of the unit,* and the BPCL (base production control level) is the total 1972 monthly production from all of the several leases that now comprise the unit. Under no circumstances, therefore, would a post-1972 unitization create a 'new' property, *i.e.*, one that has no BPCL." (Emphasis added.)

A "unitized property" is defined in § 212.75(b) as "the right to produce crude oil that arises from bona fide unitization agreement approved by the applicable governmental regulatory authority (or ERA)." Such a bona fide unitization agreement can be voluntary or involuntary as discussed in Ruling 1977-1:[5]

> Thus, for example, various parties may hold partial undivided interests in the right to produce crude oil from a particular tract. Whether voluntarily through a joint operating agreement or other type of agreement, or *pursuant to compulsory state regulations, such undivided interests in the right to produce from a tract must typically be aggregated before production can begin. Under such circumstances, no apparent purpose would be served by requiring property delineations to be carried back to the individual partial undivided interests* which have been aggregated in order to perfect the right to produce.
>
> Similarly, in states that maintain spacing requirements for oil wells, *individual rights to produce may need to be combined, whether voluntarily or involuntarily,* before a single well may be drilled and the right to produce made effective. *Such aggregations of rights to produce* (sometimes known as

[3] The Commission establishes drilling and spacing units pursuant to OKLA STAT. tit. 52, § 87.1 (1979), in part to prevent waste and to protect correlative rights by forming units of approximately uniform shape and size covering a common or "prospective" common source of supply. Uniform development prevents the drilling of unnecessary wells. The Commission relies upon all available geological and engineering data on the nature of the common source of supply in order to enable one well—the unit well—suitably located, to adequately, effectively and economically drain all the hydrocarbons within the boundary of the established unit. All royalty interests within the drilling and spacing unit are pooled and unitized and each royalty owner shares in ⅛ of all production from any well drilled on the unit in the proportion that the acreage owned by the royalty owner bears to the total acreage in the unit. Request, pp. 3, 4.

[4] 40 FR 40832 (September 4, 1975).

[5] 42 FR 3628 (January 19, 1977).

"drilling units") *are also appropriately recognized as single "properties."* (Emphasis added.)

For production of crude oil in Oklahoma, the Commission requires drilling and spacing units consisting of a certain number of acres. In order to obtain the minimum acreage required, the drilling and spacing unit may be composed of several leases and fee interests. This voluntary or involuntary combination creates a unitized property under § 212.75. However, it is Oklahoma, rather than DOE, that requires the unit acreage before any well can be drilled. Whether a single well or several are drilled is the subject of state rather than Federal controls. For state purposes, a single well must be drilled at the most efficacious location to adequately drain the formation(s) underlying the unit. Thus, production from the Verna well on the Section 7 property beginning October 7, 1977, constituted new crude oil and was subject to the upper tier crude oil ceiling price rule set forth in 10 CFR 212.74. All future production from the property also constituted upper tier crude oil.

In 1977, the production from the property consisted of commingled production from the Cherokee, Mississippi and Hunton underlying formations. Proceeds from this commingled production was shared by ESCO, the assignee and operator, with the lessors and royalty interest holders. All original mine leases merged into Section 7 and production from Section 7 accrues to the benefit of all parties. Once the status of a property has been established for DOE purposes, it is immaterial how many wells are drilled on that property. The proposed classification of crude oil from that property is the necessary factor for DOE pricing purposes.

Moreover, the remaining quarter sections of Section 7 were not transformed into separate properties pursuant to the Commission's amended order. The determination that the three new wells were necessary to drain the underlying formations, and the Commission's decision concerning their general location on the unit, were due to state statutes requiring an organized and uniform drilling system. The Commission's decision has nothing to do with the determination of a property for DOE regulatory purposes. The Commission amended its original orders to permit more wells to be drilled on the same unit as is set forth in Finding No. 4 of the amended order:

That such pattern and density are not adequate when taking into consideration the changed conditions which now prevail, as compared to conditions as known when such well pattern and density were ordered. *That it is now necessary to drill three additional wells on said unit in order to effectuate the maximum recovery of hydrocarbons* from said common sources of supply * * * (Emphasis added.)

The Commission concludes in its "Order" at No. 1:

That *Orders No. 107775 and No. 130956* be and they *are hereby amended to permit* Applicant, *ESCO* Energy Services, Inc. to *drill three additional wells on the unit comprised of all of Section 7* * * * said wells to be located as follows:

One at a legal location in the NE/4 of Section 7;

One at a legal location in the NW/4 of Section 7; and,

One at a legal location in the SW/4 of Section 7; in Township 12 North, Range 6 West, Canadian County Oklahoma. (Emphasis added.)

Thus, when drilling began on the Section 7 drilling and spacing unit the premises constituted a single property and all individual rights to produce had been subsumed into one right to produce crude oil on the unitized property.[6] When production began from the Verna Well No. 1 on October 7, 1977, the property had a base production control level (BPCL) of zero, since no crude oil had been produced from any portion of Section 7 in 1972.[7]

The regulations governing newly discovered crude oil are set forth at 10 CFR 212.79 and provide in pertinent part:

(a) *Rule.* Notwithstanding the provisions of § 212.739(a), the first sales of newly discovered crude oil on or after June 1, 1979 are not subject to the ceiling price limitations of this subpart.

(b) *Definitions.* For purposes of this section—

* * * * *

"Newly discovered crude oil" means: (1) Prior to January 1981, domestic crude oil which is (i) produced from a new lease on the Outer Continental Shelf, or (ii) produced (other than from the Outer Continental Shelf) from a property from which no crude oil was produced in calendar year 1978; or (2) after December 1980, domestic crude oil which is produced from a newly discovered crude oil property.

"Newly discovered crude oil property" means: (1) A new lease on the Outer Continental Shelf; or (2) a property (not on the Outer Continental Shelf) from which no crude oil was produced and sold in commercial quantities in calendar year 1978; or (3) any unitized property that includes only properties that prior to inclusion within the unit qualified as newly discovered crude oil properties. * * * [8]

Crude oil produced and sold from the leases ESCO acquired by assignment that were components of the Section 7 unit did not qualify for the newly discovered crude oil exemption set forth in § 212.79. The leases constituted the Section 7 unit which was a property that produced crude oil in 1978. In addition, the unit did not consist of "only properties that prior to inclusion within the unit qualified as newly discovered crude oil properties."

The Verna well, the first producing well on the unit, began production in 1977. Therefore, the crude oil produced from the Section 7 property constituted

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[6] *Pacific Lighting Exploration Co.*, Interpretation 1975-27, 43 FR 23740 (May 10, 1977).

[7] *See Joseph J. C. Paine & Associates*, Interpretation 1977-37 42 FR 54270 (October 5, 1977) at 54271 which states:

Since no crude oil was produced from the section 10 property subsequent to October 1971, the section 10 sublease has no base production control level.

"New crude oil" is defined in § 212.72 to mean: with respect to a specific property:

(1) Prior to February 1, 1976, the total number of barrels of domestic crude oil produced and sold in a specific month, less (A) the base production control level for that month, and less (B) the current cumulative deficiency;

(2) Effective February 1, 1976, the total number of barrels of domestic crude oil produced and sold in a specific month, less (A) the property's base production control level for that month and less (B) the current cumulative deficiency since February 1, 1976;

* * * * *

Thus, all crude oil produced from the section 10 property will, upon proven certification pursuant to § 212.131(a), be classified as new crude oil and will therefore be subject to the upper tier ceiling price rule set forth in § 212.74.

For the purposes of determining the unit BPCL, however, ESCO must refer to 10 CFR 212.75 which defines "new crude oil" to mean in part:

"New crude oil" means, in a particular month, (1) with respect to a unitized property for which a unit base production control level was established prior to August 1, 1977, either (i) actual new crude oil produced is the total number of barrels of crude oil produced and sold in that month from all properties that constitute the unitized property, less (A) the unit base production control level, and less (B) the current cumulative deficiency; or (ii) imputed new crude oil, which is a number of barrels of crude oil equal to the total number of barrels of new crude oil produced and sold during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property, from all properties that constitute the unitized property, divided by the number of days in that 12-month period, and multiplied by the number of days in the particular month whichever number is greater; * * *

In addition, § 212.75(e) provides:

Notwithstanding the provisions of paragraph (d) of this section, a producer of crude oil from a unitized property may, in any month, charge a price not to exceed the upper tier ceiling price (as determined pursuant to §§ 212.74 and 212.77 of this part) in first sales of new crude oil produced and sold from the unitized property.

See also L. O. Ward, Interpretation 1979-17, 44 FR 60284 (October 19, 1979) and *W. E. Shrider*, 1 DOE ¶80,111 (October 21, 1977) (the creation of more than one drilling unit on premises subject to a single right to produce [i.e. a unitized property] does not establish each such unit as a separate property).

[8] 44 FR 25828 (May 2, 1979), as amended at 45 FR 78583 (November 25, 1981) effective January 1, 1980; Ruling 1980-3, 45 FR 48577 (July 21, 1980).

new crude oil and must have been so certified in accordance with 10 CFR § 212.131,[9]

Accordingly, (1) Section 7 was a single property for purposes of 10 CFR Part 212, Subpart D and crude oil produced from that property qualified as upper tier crude oil upon proper certification pursuant to 10 CFR 212.131; (2) pursuant to 10 CFR 212.79, crude oil produced from the three wells drilled on Section 7 during and subsequent to 1978 did not qualify as newly discovered crude oil because production had begun on the property prior to calendar year 1978.

Issued in Washington, D.C. on May 29, 1981.

Lona L. Feldman,

Assistant General Counsel for Interpretations and Rulings.

Interpretation 1981–16

To: Green Hills, Inc.
Regulation Interpreted: 10 CFR 430.2
Code: GCW–CI–Energy Conservation Programs for Appliances; Furnace, definition

Facts

Green Hills, Inc. (Green Hills) is a small manufacturing firm located in Mount Ayr, Iowa. Under the provisions of a licensing agreement executed in July 1980 with Dollar-Wise, Ltd., Green Hills assumed complete responsibility for the manufacturing and sale of a device referred to and marketed as the Dollar-Wise Heat Exchanger System (the system). The system is designed to function as the sole source of home heat. It receives hot water piped from a water heater and by means of a blower unit expels the air warmed by the hot water through the house ventilation system. Therefore, the system operates like a conventional forced-air furnace despite its lack of a built-in heat source.

Green Hills contends that since the cabinet for its heating system does not itself contain the mechanism which generates the heat (in this case, the hot water heater), its system is not a furnace as that term is defined in 10 CFR 430.2 of the Department of Energy's (DOE) energy conservation program for appliances. If the system is not a furnace, i.e., a covered product, Green Hills is not required to comply with the relevant test procedures promulgated in accordance with Section 323 of the Energy Policy and Conservation Act (EPCA), as amended, Pub. L. No. 94–163 (December 22, 1975) (the Act). Green Hills argues further that because the system as marketed does not have the capacity to generate heat and cannot logically be attributed with a Btu output, Green Hills cannot adapt existing test procedures applicable to hot water heaters to its system's design. If it were to attempt to test and label its product as required by law, Green Hills believes the result would be misleading since the hot water heater has been selected to satisfy the heating requirements of a particular structure and the introduction of its system constitutes an unknown variable dependent on the actual heat load. Accordingly, Green Hills argues that the Dollar-Wise Heat Exchanger System falls outside the definition of furnace set forth in § 430.2(14) and is not subject to the test procedures described in Appendix N of Part 430.[1]

Issue

Is the heating system manufactured by Green Hills a furnace as defined in § 430.2(14), and must Green Hills apply the test procedures specified in Appendix N of Part 430 of the DOE's energy conservation program for covered consumer products?

Interpretation

The Dollar-Wise Heat Exchanger System is not a furnace as defined in § 430.2(14). Green Hills is therefore not required to determine the energy efficiency and consumption estimates of its product in compliance with the test procedures outlined in Appendix N of Part 430 of the energy conservation program for appliances.

Section 323 of the Act prohibits manufacturers of covered products from making any representation in writing, labeling, or broadcast advertising regarding the energy consumption of their products without first testing representative samples of such products in accordance with test procedures prescribed by the DOE.[2] Consumer products are covered products for purposes of § 323 if they are one of 13 designated types or if they are designed to perform a function principally performed by any of the types of consumer products identified in § 322(a).

The definition of "furnace" at § 430.2(14) was amended on August 4, 1980, to mean:

> [A] device, utilizing only single-phase electric current, or single-phase electric current or millivoltage DC current in conjunction with either natural gas, propane, or home heating oil, which is designed to be the principal heating source for the living space of a residence and which is not contained within the same cabinet with a central air conditioner whose rated cooling capacity is above 65,000 Btu's per hour. *Every furnace is either an electric central furnace, electric boiler, forced-air central furnace, gravity central furnace, or low pressure steam or hot water boiler.* The heat input rate of a furnace is less than 300,000 Btu's per hour for electric boilers and low pressure steam or hot water boilers, and is less than 225,000 Btu's per hour for forced-air central furnaces, gravity central furnaces, and electric central furnaces. (Emphasis added).[3]

In its request Green Hills asserts that the system which it manufactures is not a furnace because its heat source is not contained within the physical unit. While Green Hills' system is designed to serve as the principal heating source for a residence, the definition of furnace requires that the system be distinguishable as "either * * * [a] forced-air central furnace * * * *or* hot water boiler."[4] (Emphasis added). Although the system is connected to a hot water heater/boiler upon installation, and uses the hot water boiler as its heat source, the system is *not* itself a hot water boiler. Moreover, the system does not qualify as a forced air central furnace. It is designed to function in much the same way, but it is not a "gas or oil burning furnace." Thus, the system does not qualify as a furnace under the literal definition of that term and is not subject to the test procedures

[9] *See Farmers Union Central Exchange, Inc.*, Interpretation 1980–49, issued on December 9, 1980.

[1] On June 13, 1980, Dollar-Wise, Ltd. (Dollar-Wise) filed an exception application with the DOE Office of Hearings and Appeals (OHA). Dollar-Wise claimed that it would suffer gross inequity and serious hardship if it were required to comply with existing furnace test procedures. In a decision issued on December 17, 1980, (Case No. BEE–1212), the OHA agreed with the applicant that the burden of testing its product with every basic model of water heater encompassed by Part 430 was so extreme as to contravene legislative intent. OHA granted an exception which permitted Dollar-Wise to limit the required test procedures to two representative water heaters. Decision and Order at p. 5.

[2] Section 324 directs the Federal Trade Commission (FTC) to prescribe rules which require that covered products carry labels which disclose the estimated annual operating cost or a different useful measure of energy consumption of such products. Pursuant to this authority, the FTC issued regulations which require the disclosure of the results of the energy efficiency tests by affixing energy-use labels on covered products after May 19, 1980. *See* 16 CFR 305.11.

[3] 45 FR 53714 (August 12, 1980).

[4] These terms are defined as § 430.2 as follows:

"Low pressure steam or hot water boiler" means an electric, gas or oil burning furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 pounds psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

* * * * * *

"Forced air central furnace" means a gas or oil burning furnace designed to supply heat through a system of ducts with air as the heating medium. The heat generated by combustion of gas or oil is transferred to the air within a casing by conduction through heat exchange surfaces and is circulated through the duct system by means of a fan or blower.

43 FR 20154.

set forth in Appendix N of Part 430 for furnace. However, Green Hills may still be required to justify any claims which it may make concerning the system.[5]

Accordingly, because the Dollar-Wise Heat Exchanger System cannot properly be characterized as a furnace consistent with the definition set forth in § 430.2(14), Green Hills is not required to perform the test procedures outlined in Part 430, Appendix N of the energy conservation program for appliances.

Issued in Washington, D.C., on May 29, 1981.

Lona L. Feldman,

Assistant General Counsel for Interpretations and Rulings Division.

Interpretation 1981–17

To: Murphy Oil Corporation
Regulations Interpreted: 10 CFR 211.63
Code: GCW—AI—Supplier/Purchaser Relationship

Facts

Murphy Oil Corporation (Murphy) is a small and independent refiner whose principal place of business is El Dorado, Arkansas. From July 1974 until either May or July 1980 Ferguson Energy Corporation (Ferguson), a reseller of crude oil, sold to Murphy crude oil that it purchased from various producers in South Arkansas.[1] The sales were made pursuant to the provisions of six crude oil supply contracts,[2] each of which contained the same termination clause providing for cancellation by either party upon 30 days' advance written notice. On June 25, 1980 Ferguson notified Murphy that all of the purchase/sale contracts would be cancelled effective July 25, 1980. On July 30, 1980 Murphy was advised by Mid-America that effective July 1, 1980 it had purchased the assets of Ferguson. Mid-America further stated that it would continue performance under the purchase/sale contracts between Murphy and Ferguson during July 1980, but would discontinue deliveries of crude oil on July 31, 1980. Mid-America continued to deliver crude oil to Murphy during July 1980 at the delivery point provided for in the supply contracts. However, Mid-America ceased supplying Murphy after July 1980 and neither Ferguson nor Mid-America made further deliveries to Murphy after July 1980.[3]

Issue

Did the termination clause in the purchase/sale contracts between Murphy and Ferguson constitute consent by Murphy to terminate the supplier/purchaser relationship in accordance with 10 CFR 211.63(d)(1)(i)?[4]

Interpretation

The termination clause in the purchase/sale contracts between Murphy and Ferguson did not constitute consent by Murphy to terminate the supplier/purchaser relationship in accordance with § 211.63(d)(1)(i).

Section 211.63, the provision governing crude oil supplier/purchaser relationships, provided in relevant part:

(b) *General rule.* (1) All supplier/purchaser relationships with respect to crude oil within the scope of paragraph (a) of this section which were in effect under contracts for sales, purchases and exchanges of domestic crude oil on January 1, 1976 shall remain in effect for the duration of this program: *Provided, however,* That any such supplier/purchaser relationship to which this section is applicable may be terminated as provided in paragraph (d) of this section.[5]

Therefore, because the purchase/sale contracts between Murphy and Ferguson were in effect on January 1, 1976, Ferguson established a supplier/purchaser relationship with Murphy pursuant to § 211.63(b). Accordingly, Ferguson was required by § 211.63(b) to continue this relationship for the duration of the Federal Crude Oil Allocation Program unless terminated in compliance with the specific mandates of § 211.63(d).

In July 1980, the time in which Ferguson intended to terminate its supply of crude oil to Murphy, § 211.63(d) governed the termination of supplier/purchaser relationships. Section 211.63(d)(1)(i), which provided the sole mechanism for the termination of supplier/purchaser relationships, stated:

(d) *Termination of supplier/purchaser relationships.* (1) Any supplier/purchaser relationship established under paragraph (b) of this section may be terminated as follows:

(i) At the option of the purchaser, as evidenced by its written consent thereto together with notice of the termination date given to the producer, provided all subsequent purchasers of the crude oil involved have consented to such termination in writing * * *.[6]

Thus, Murphy could have consented in advance to a termination of the supplier/purchaser relationship pursuant to § 211.63(d)(1)(i), as long as the strict requirements of the provision were satisfied.

In *Arizona Fuels Corporation,* Interpretation 1979–18, 44 FR 60266 (October 19, 1979), the DOE concluded that the purchaser could waive its option to terminate by giving its advance consent only if the express regulatory requirements set forth in §211.63(d)(1)(i) were satisfied. The agreement at issue contained a clause providing for written notice of the termination of the supply agreement a minimum of 65 days prior to cancellation. Because a specific termination date was not included in the agreement, the termination clause was found to be insufficient on its face to

[5] Any claims made by Green Hills are subject to scrutiny under other federal statutes, including Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1), 38 Stat. 719 (September 26, 1914).

[1] The effective date of Ferguson's termination of deliveries is unclear. Ferguson informed Murphy that it sold its assets to Mid-America Company, Inc. (Mid-America) on May 8, 1980, while Mid-America advised Murphy that it acquired Ferguson's assets effective July 1, 1980.

[2] The contracts were dated as follows: July 25, 1974; October 31, 1975; February 23, 1977; November 2, 1977; June 1, 1978.

[3] Mid-America raised various equitable considerations in its comments to Murphy's request for interpretation. However, such considerations should be raised before the DOE's Office of Hearings and Appeals.

[4] Executive Order 12287, 46 FR 9909 (January 30, 1980), exempted effective January 28, 1981, all crude oil and refined petroleum products from the price and allocation controls adopted pursuant to the Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended. Because Murphy's request involves matters which occurred prior to January 28, 1981, under § 211.63, the request has not become moot by the issuance of the Executive Order.

[5] As originally adopted in January 1974, § 211.63 basically provided that all contracts for sales, purchases, and exchanges of domestic crude oil in effect on December 1, 1973, were to be maintained for the duration of the crude oil allocation program. The rule originated as 10 CFR 211.64, 39 FR 1924 (January 15, 1974), but was amended and renumbered 10 CFR 211.63 on May 10, 1974. 39 FR 17287 (May 14, 1974). On February 12, 1976 § 211.63 was amended to substitute January 1, 1976 for December 1, 1973, as the relevant date for determining supplier/purchaser relationships. Section 211.63 was amended on August 18, 1980 effective October 1, 1980, to read as quoted above in this Interpretation. Although all of the purchase/sale contracts between Murphy and Ferguson were entered into between July 1974 and June 1978, the August 1980 Amendments to the supplier/purchaser rule have not altered its application to the facts in this case.

[6] 42 FR 54261 (October 5, 1977), effective December 1, 1977. Section 211.63(d)(1) was amended by 45 FR 56732 (August 25, 1980), effective October 1, 1980, as follows:

(d) *Termination of supplier/purchaser relationships.* Any supplier/purchaser relationship established under paragraph (b) of this section may be terminated as follows:

(1) Mutual Consent.

(i) A purchaser and supplier may mutually agree to terminate their relationship, as evidenced by their written consent thereto, together with notice of the termination date, if all subsequent purchasers of the crude oil involved have a supplier/purchaser relationship with respect to such crude oil have consented to such termination in writing;

(ii) With respect to any new supplier/purchaser relationship created after September 30, 1980, other than a relationship created pursuant to paragraph (3) of this paragraph, a purchaser and supplier may mutually agree to terminate their relationship, as evidenced in a contract entered into on or after October 1, 1980, expressly waiving the requirements of subsections (b) and (c) of this section or providing for the termination of a supplier/purchaser relationship.

constitute consent. In *Giant Industries, Inc.*, Interpretation 1981–2, issued January 6, 1981, the DOE concluded that the provisions under which a crude oil supply contract could be "cancelled by either party giving 30 days notice" did not constitute consent to terminate the supplier/purchaser relationship in accordance with § 211.63(d)(1)(i). *Southwestern Refining Co., Inc.*, Interpretation 1981–7, issued March 12, 1981, concluded that because the agreement between the purchaser and seller did not give notice of a specific termination date, the termination clause was insufficient on its face to constitute consent to terminate pursuant to § 211.63(d)(1)(i).[7]

Similarly, in this case the termination clause in the purchase/sale contracts between Murphy and Ferguson failed to specify a termination date. Rather, the termination clause in each of the six purchase/sale contracts merely provided that the contract would continue "until cancelled by either party hereto on thirty (30) days advance written notice to the other party." The result of the failure to include a specific termination date was that Murphy did not give advance consent to a termination of the supplier/purchaser relationship in compliance with § 211.63(d)(i). Therefore, Ferguson's unilateral cancellation of crude oil supplies to Murphy was improper.

Issued in Washington, D.C. on June 15, 1981.

Lona L. Feldman,

Assistant General counsel for Interpretations and Rulings.

Interpretation 1981–18

To: Union Carbide Corporation
Regulations Interpreted: 10 CFR 211.67(a), 211.67(d)(5), 212.53(a)
Code: GCW–AI—Entitlements Program, Export Sales Deduction

Facts

Union Carbide Corporation (Union Carbide) is the parent company of a wholly-owned subsidiary, Union Carbide, Caribe Inc. (Caribe), a petrochemical plant at Ponce, Puerto Rico, which processes imported and domestic (from the Island) naphtha and liquified petroleum gas for the production of petrochemical products.[1] Union Carbide, as the owner of a petrochemical plant, was subject to the Mandatory Petroleum Allocation and Price Regulations, 10 CFR Part 211 and Part 212.[1]

Union Carbide's subsidiary, Caribe, is the largest producer of petrochemicals in Puerto Rico. Union Carbide is also the largest investor in petrochemicals in Puerto Rico. In 1979, these petrochemicals were produced from a raw material mix consisting of 75 percent imported naphtha, 20 percent on-Island produced naphtha and raffinate, and 5 percent imported propane. Union Carbide's major products are:

—Polyethylene resins—used for wire and cable insulation, film packaging.
—Ethylene glycols—used as antifreeze, manufacture of polyester fibers.
—Glycol ethers—solvents and intermediates.
—Alcohols—manufacture of plasticizers and intermediates.
—Phenolics—plastic resins.

All by-product fuels produced from feedstock are consumed internally in the manufacturing process. Caribe's plant at Ponce is an integral part of Union Carbide's domestic petrochemical operations and represents about 20 percent of its producing capacity. A number of products produced in Puerto Rico are also produced in Union Carbide's facilities in Texas and Louisiana. Petrochemical intermediates are also shipped from the mainland to Ponce for further processing. Approximately 95 percent of Caribe's sales in 1979 were to Union Carbide on the mainland, while 4 percent were to on-Island customers and 1 percent were exports from Puerto Rico.

According to Union Carbide, the Caribe petrochemicals purchased by Union Carbide are commingled with like stateside production at various distribution terminals, and from an accounting standpoint, are not normally traced through the system, Very few of Union Carbide's exports can be identified as being uniquely produced in Puerto Rico. About 5 percent of the total shipments sold by Caribe to Union Carbide in 1979 were exported as received, while another 2 percent were exported after further processing. Total exports of Caribe petrochemicals, both by Caribe and by Union Carbide, were approximately 7.5 percent of sales in 1979. In addition, according to Union Carbide, although exports vary on a month-to-month basis, Caribe's use of domestic naphtha and imported propane as feedstock during the 1976-to-date period was more than sufficient to account for all of the petrochemicals sold by Caribe, directly and indirectly, into the export market.

Issue

Was Union Carbide required to deduct from its crude oil runs to stills export sales of petrochemical products processed from imported naphtha at its Puerto Rico petrochemical plant according to the provisions of 10 CFR 211.67 and 10 CFR 212.53 of the Mandatory Petroleum Allocation and Price Regulations?

Interpretation

Union Carbide was eligible to receive entitlements under 10 CFR 211.67, for imported naphtha used as a petrochemical feedstock at its Puerto Rican petrochemical plant. Exports of the processed naphtha were required to be deducted from Union Carbide's volume of "crude oil runs to stills" as export sales pursuant to 10 CFR 211.67(d)(5).

Section 211.67(d)(5) of the Mandatory Petroleum Allocation Regulations governed the issuance of entitlements for imported naphtha in Puerto Rico and provides in pertinent part:

(i) The volume of a refiner's crude oil runs to stills beginning with the month of January 1981 in a particular month for purposes of the calculations in subparagraph (1) of paragraph (a) of this section and the calculations for the national domestic crude oil supply ratio shall include the number of barrels of naphthas which are imported into Puerto Rico (other than imports from the U.S. Virgin Islands and other than naphthas imported into Puerto Rico which are acquired pursuant to an exchange or similar matching purchase and sale transaction for naphthas produced by a refinery located in the United States) and are utilized in that month as a petrochemical feedstock at a petrochemical plant owned or operated by that refiner in Puerto Rico, * * *

(ii) *The volume of naphthas eligible for inclusion in the volume of a refiner's crude oil runs to stills* in a particular month under subdivision (i) of this subparagraph *shall be reduced by the volume of export sales* (under § 212.53 of Part 212 of this chapter, including sales to a purchaser which certifies it or an entity affiliated with that purchaser will export the product so purchased), *for that month of products produced at the*

[7] *Arizona Fuels, Giant,* and *Southwestern* also made it clear that it was consistent with the objectives of the emergency Petroleum Allocation Act of 1973 (EPAA), as amended, Pub. L. 93–159 (November 27, 1973), to require that the purchaser's option to terminate be exercised in strict compliance with § 211.63(d). Specifically, § 211.63 was promulgated to further "(the) preservation of * * * the competitive viability of independent refiners, (and) small refiners." Strict compliance with § 211.63 protected the purchaser from the unexpected interruption of their crude oil supplies at the discretion of their suppliers. EPAA § 4(b)(1)(D).

[1] Executive Order 12287, 46 FR 9909 (January 30, 1981) exempted all crude oil and refined petroleum products from the price and allocation controls adopted pursuant to the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 751 *et seq.*). This Order was effective at 12:01 a.m., January 28, 1981. Because the issue presented here for review involved transactions subject to the Mandatory Petroleum Allocation and Price Regulations, it is necessary to resolve the issue in order to determine compliance of the firm involved in these transactions with the regulations prior to January 28, 1981.

petrochemical plant that has processed the imported naphthas.

(iii) Notwithstanding any other provisions of this section, a firm other than a refiner that owns a petrochemical plant in Puerto Rico shall be eligible to receive entitlements with respect to naphthas processed at such a plant on the same basis as is provided for refiners in subdivisions (i) through (ii) of this subparagraph, except that such a firm shall not be eligible for any additional entitlements under the provisions of paragraph (e) of this section. Any such firm shall file reports under § 211.66 on the same basis as a refiner.

(iv) Any firm that is eligible for entitlement issuances under this subparagraph shall obtain appropriate certifications from any other firm to which it sells products produced at a petrochemical plant located in Puerto Rico. Such certification shall set forth whether or to what extent the products so purchased will be sold (whether directly by that other firm or indirectly through any firm affiliated with that other firm) in transactions that constitute export sales under § 212.53 of Part 212 of this chapter. Any firm purchasing products produced at a petrochemical plant located in Puerto Rico shall, upon the request of the owner or operator of that facility, certify to that owner or operator as to whether or what extent the further sale of those products by that firm (or any affiliate thereof) will constitute export sales under § 212.53. (Emphasis added.)

Thus, a refiner's basis for entitlements as provided in § 211.67(d)(5) included its imports of naphtha used in a petrochemical plant in Puerto Rico. However, this had to be reduced by "the volume of export sales * * * for that month of products produced at the petrochemical plant that has processed the imported naphthas." § 211.67(d)(5)(ii).

Export sales of petroleum products were exempt from the Mandatory Petroleum Price Regulations under § 212.53(a) which provides:

> The prices charged for export sales, including sales to a domestic purchaser which certifies the product is for export, are exempt.

In *Mobil Oil Corp.*, Interpretation 1977–16, 42 FR 31151 (June 20, 1977), the agency determined that a sale is *an "export sale" if it produces revenues from foreign sources.* (Emphasis added.) [2]

In its submission, Union Carbide argues that because products produced at a petrochemical plant are not now and never were covered products or refined petroleum products, the export sales deduction does not apply to petrochemical products processed from imported naphtha at its Puerto Rican petrochemical plant and sold as exports. Such a determination would constitute "an overbroad application of the export sales deduction," Union Carbide contends. Union Carbide argues that export sales of naphtha petrochemicals at uncontrolled prices would not be contrary to the protection of the domestic market as contemplated by § 212.53(a) or the entitlements program.

Union Carbide has incorrectly analyzed the provisions of § 211.67(d)(5). Section 211.67(d)(5) requires the reduction of crude oil runs to stills for exports of *products* produced at the petrochemical plant that had purchased the imported naphtha. The exported products are *not* defined as either "covered products" (as defined in § 212.31) or refined petroleum products (as defined in § 211.51). In the preamble to § 211.67(d)(5), the agency stated:

> An export sales deduction has been included in the amendments adopted. This is consistent with the general purpose of the export sales deduction for refined petroleum products and residual fuel oil, i.e., retention of the benefits of domestic price controls within the domestic economy.

41 FR 30321 at 30322 (July 23, 1976).

Accordingly, the agency recognized that products derived from naphtha were not necessarily products covered by the Mandatory Petroleum Allocation and Price Regulations. If the agency had intended to apply the export deduction to covered products only, or to refined petroleum products only, it would have so indicated, as it did in § 211.67(d)(2) which states:

> (2) *The volume of a refiner's crude oil runs to stills in a particular month* for purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio *shall be reduced by that refiner's volume of export sales under § 212.53* of Part 212 of this chapter *in that month of refined petroleum products (including aviation fuels* as defined in § 211.142 of this part, *but excluding refined lubricating oils) and residual fuel oil, including sales to a domestic purchaser which certifies the product is for export; provided,* however, that the volume of a refiner's crude oil runs to stills for a month shall not be reduced by that refiner's volume of export sales of Bunker C and Navy Special fuel oils and No. 4 diesel, which are sold for use as a marine fuel on a voyage departing from a United States port. (Emphasis added.)

41 FR 13899 (April 1, 1976).

Accordingly, the purpose of the export sales deduction for all entitlements benefits was to retain the benefits of domestic price controls within the domestic economy. Entitlements benefits were not necessary to make export sales competitive or viable because foreign petroleum and petrochemical products did not benefit from price controls on either crude oil or products. However, the grant of entitlements for export sales would raise the effective price of crude oil to refiners in the United States and therefore the price of petroleum products in the United States. Entitlements benefits for export sales would subsidize those sales at the expense of the domestic market for petroleum products, whether or not the exported product would be subject to price controls in the United States.

Thus, Union Carbide's reading of § 211.67(d)(5) would be inconsistent with the purpose of the export sales deductions set forth in § 211.67(d)(2) as well as § 211.67(d)(5) since virtually the entire refined output of a barrel of crude oil was subject to the export sales deduction, whether or not the particular product was subject to price controls. Similarly, § 211.67(d)(5) required a deduction from the special Puerto Rican naphtha entitlement for export sales of any product derived from the naphtha which would otherwise be eligible for that benefit. The agency concluded:

> * * * that the amendments adopted in this regard will provide sufficient entitlement value for petrochemical producers located in Puerto Rico so as to render them competitive with other domestic firms; at the same time the amendments should not provide a level of relief in excess of that warranted * * *

41 FR 30321 (July 23, 1976).

In this manner, the regulation made Puerto Rican petrochemical producers competitive with other domestic firms without granting them unwarranted and unnecessary benefits in foreign markets.

In addition, as a petrochemical plant owner in Puerto Rico, Union Carbide was required to file Form FEA–P–129–M–O, the "Domestic Crude Oil Entitlements Program Naphtha Imports Monthly Report." According to its submission, Union Carbide has not reported export sales of "naphtha derivatives" as required by the form on line 10209. Union Carbide justifies this by contending that the term "naphtha derivatives" is undefined and no explanation for the export sales deduction appears on the form. Therefore, Union Carbide argues that it may export naphtha derivatives and not deduct these volumes from its volume of crude oil runs to stills.[3] Moreover, Union Carbide asserts that the export sales deduction discussion in the preamble to § 211.67(d)(5) distinguishes "naphtha derivatives" from "finished petroleum products."[4]

The lack of a definition for the term "naphtha derivatives" on the form does not excuse Union Carbide's actions.

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[2] *See Amoreent Petroleum Company, California,* Interpretation 1981–12, 46 FR 27295 (May 18, 1981).

[3] Union Carbide's Request for Interpretation, pp. 2 and 3.

[4] Ibid., p. 6.

When read together with the pertinent regulations, the term "naphtha derivatives" means those products derived from naphtha. The form expressly required the reporting of export sales of "naphtha derivatives," and Union Carbide should have reported its export sales of products derived from naphtha, as required by § 211.67(d)(5) and Form FEA-P-129-M-O.

Furthermore, the preamble language cited by Union Carbide in its submission does not support its claim. The preamble stated:

> Because considerable amounts of finished petrochemical products are exported subsequent to the initial sale of the naphtha derivative by the petrochemical producer, resulting in potential tracing difficulties, FEA has decided to limit the applicability of the export sales deduction to export sales by the petrochemical producer or by the first purchaser (or any affiliate thereof) from that producer.

41 FR 30321 at 30322 (July 23, 1976).

The preamble only drew a distinction for purposes of export sales between initial sales and subsequent sales. The agency concluded that tracing difficulties with respect to subsequent purchasers justified limiting the export sales deduction to the sales by the petrochemical producer or the first purchaser from that producer.[5] The preamble does not limit the applicability of the export sales deduction to finished petrochemical products or naphtha derivatives, much less "covered products" or "refined petroleum products." Thus, whether Union Carbide's products are naphtha derivatives or finished petrochemical products, as described in the preamble, they were subject to the export sales deduction if they were either sold by Union Carbide for export or were sold by Union Carbide's first purchaser for export.

Accordingly, Union Carbide was required by the provisions of 10 CFR 211.67(d)(5) to calculate its entitlements by deducting from its volume of imported naphtha eligible for inclusion in the entitlements program, the volume of petrochemical products sold in export sales pursuant to 10 CFR 212.53, from its petrochemical plants in Puerto Rico in order to comply with the provisions of the entitlements program as set forth in 10 CFR 211.67.

[5] This limitation is not found in the refined petroleum products and residual fuel oil export sales deduction because product tracing was not as difficult.

Issued in Washington, D.C., on June 23, 1981.

Lona L. Feldman,

Assistant General Counsel for Interpretations and Rulings.

Interpretation 1981-19

To: D. H. Hunt

Regulations and Rulings Interpreted: 10 CFR § 212.72; Rulings 1975-15, 1977-1

Code: GCW—PI—Property, def.

Facts

D. H. Hunt is a producer of crude oil who was subject to the Mandatory Petroleum Price Regulations governing first sales of crude oil set forth in 10 CFR Part 212, Subpart D and implemented by the Department of Energy and its predecessor agencies (DOE).[1] D. H. Hunt is presently producing crude oil from leasehold acreage located in Ward County, Texas.

The crude oil producing properties that are now operated by D. H. Hunt and that are the subject of this interpretation can be traced to leases which were executed in 1943. On June 17, 1943, Lewis M. Watson and Marion W. Watson leased to F. H. Scott approximately 640 acres in Ward County (Watson Lease). F H. Scott also held the rights to two other leases in Ward County. One parcel contains approximately 160 acres (Scott lease No. 1); the other parcel contains approximately 640 acres (Scott lease No. 2).

Continental Oil Company (Conoco) received an assignment of the Watson lease from F. H. Scott on July 12, 1943. On November 1, 1943, F. H. Scott also assigned the Scott lease No. 1 and Scott lease No. 2 to Conoco.

Conoco together with Kennecott Copper Corporation (hereinafter collectively referred to as Conoco), transferred on December 4, 1953 a "Partial and Conditional Assignment" of several oil and gas leases to Trinity Production Company (Trinity). This assignment transferred certain rights covering the full 160 acres of the Scott lease No. 1, 600 acres of the Scott lease No. 2 (excluding the 40 acres surrounding Conoco well No. 1), 560 acres of the Watson lease (excluding the 40 acres surrounding each of Conoco's wells No. 1 and No. 2), and one additional lease covering 40 acres. Conoco also reserved an overriding royalty interest in the production from this acreage.

After this transfer, Trinity assigned the Watson lease, the Scott lease No. 1, and the Scott lease No. 2 to Joe L. Rush and Ralph L. Rush on August 20, 1954. On the same day, Messrs. Rush assigned their rights in the three leases to N. B. Hunt, W. H. Hunt and Lamar Hunt, subject to the same outstanding interests retained by Conoco.

Finally, on January 4, 1978 Messrs. Hunt entered into a farmout agreement with the present owner, D. H. Hunt, covering the Watson lease, the Scott lease No. 1 and the Scott lease No. 2. This farmout agreement is subject to the outstanding interests in those leases retained by Conoco.

The Conoco wells No. 1 and No. 2 located on acreage retained by Conoco that was originally part of the Watson lease have continued to produce crude oil and were certified by Conoco as stripper well properties for the twelve months preceding December 31, 1973. In addition, the Conoco No. 1 well located on acreage retained by Conoco that was originally part of the Scott lease No. 2 has continued to produce crude oil and was certified by Conoco as a stripper well property for the twelve months preceding January 31, 1978.

There was no other production from the Watson lease or the Scott leases No. 1 and No. 2 until D. H. Hunt took possession of the drilling rights to the three leases. Then, in July 1978 D. H. Hunt drilled a new well and began production from his interest in the Watson lease. Subsequently, in August 1978 D. H. Hunt drilled another new well and began production from his interest in the Scott lease No. 2.

Based upon the history of the transfers of rights involving the Watson lease, the Scott lease No. 1 and the Scott lease No. 2, D. H. Hunt contends that the 1943 agreements for the leases continued to define the limits of the property for the duration of the Mandatory Petroleum Price Regulations. The terms of these 1943 lease agreements provide that the original lessees, Conoco and F. H. Scott, possessed leases of 10 years duration and as long thereafter as oil, gas or other products were produced from the acreage. The leases also continued in effect if at the end of 10 years the lessee

[1] Executive Order No. 12287, 46 FR 9909 (January 30, 1981), exempted all crude oil and refined petroleum products from the price and allocation controls adopted pursuant to the Emergency Petroleum Allocation Act of 1973 (EPAA) as amended, Pub. L. No. 93-159 (November 27, 1973), 15 U.S.C. 751 *et seq.* (1976). On March 30, 1981, the DOE issued a final rule revoking those regulations made unnecessary by the Executive Order, 46 FR 20508 (April 3, 1981). All of the crude oil price regulations except certain definitions set forth in § 212.31 and not relevant to this interpretation were revoked effective March 30, 1981. However, D. H. Hunt's request involves matters relating to the period prior to March 30, 1981. Therefore, the request has not become moot by the issuance of the Executive Order and the revocation of the crude oil price regulations.

commenced drilling operations. In that event, the lease remains in effect as long as drilling operations are conducted in good faith and continues in effect so long thereafter as production continues. D. H. Hunt contends that, despite subsequent assignments of interests in the leases, because the right to produce from the acreage described by the original 1943 leases depends upon continued operation of the tracts, the original 1943 leases must be the basis for defining these properties for the petroleum price regulations.

In addition, D. H. Hunt contends that the December 4, 1953 "Partial and Conditional Assignment" of certain rights regarding these three leases from Conoco to Trinity did not create separate properties under the provisions of the Mandatory Petroleum Price Regulations. D. H. Hunt also asserts that the 1978 transfer of rights regarding these three tracts, *i.e.*, the 1978 farmout agreement, also did not create separate properties from the acreage subject to the leases established in 1943. Thus, D. H. Hunt maintains that his production, which began in 1978 from the acreage subject to the farmout agreement, qualifies as stripper well crude oil because the relevant "properties" for the duration of the crude oil price regulations are those created by leases in 1943, and because Conoco has certified as stripper well properties in 1973 and in 1978 the production from the wells it retains on that acreage.

Issue

Were separate properties created for the purposes of determining crude oil production pursuant to 10 CFR Part 212, Subpart D by the December 4, 1953 "Partial and Conditional Assignment" of certain rights from Conoco to Trinity, the farmout agreement executed in 1978, or any other assignment of interest in the Scott lease #2 and the Watson lease? [2]

Interpretation

The lease between Conoco and Trinity in 1953 altered the acreage subject to the original right to produce crude oil and determined D. H. Hunt's "property" from which crude oil was produced for purposes of the Mandatory Petroleum Price Regulations. Neither the farmout agreement nor any other assignment subsequent to the agreement between Conoco and Trinity established a new right to produce crude oil and, hence, a new "property" for purposes of determining prices for crude oil pursuant to 10 CFR Part 212, Subpart D. [3]

The DOE originally defined the term "property" [4] for the purposes of the crude oil price regulations set forth in Part 212, Subpart D, at § 212.72 as: "The right which arises from a lease or from a fee interest to produce domestic crude petroleum." 39 FR 1924 (January 15, 1974), effective January 14, 1974. Although the definition was amended once in 41 FR 4931 (February 3, 1976), effective February 1, 1976, the effect of the definition was always the same for the purpose of this interpretation. The definition was published in its final form in 41 FR 36171 (August 26, 1976):

> *"Property" means the right to produce domestic crude oil,* which arises from a lease or from a fee interest. A producer may treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil, provided that such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation that is separate and distinct from, and not in communication with, any other producing formation. [Emphasis added.]

The companion regulatory concept that gave significance to the "property" definition of the Mandatory Petroleum Price Regulations was the concept of a "base production control level" (BPCL). A BPCL was a historical benchmark figure through which a domestic producer of crude oil measured current production from a "property" against production from corresponding acreage and during the corresponding month in a base year to determine the amounts of "new" and "old" crude oil [5] for which that producer could charge lower tier ceiling prices [6] and upper tier ceiling prices. [7] Thus, the "right to produce," not the specific nature of the ownership interest, determined the "property" from which a producer of crude oil measured production and compared it to the relevant BPCL to determine the prices that could be charged pursuant to Subpart D. That the "right to produce" was central to the regulatory definition of property in § 212.72 is implicit in the definition itself. [8]

The agency has interpreted the definition of "property" in several rulings. Ruling 1975–15, 40 FR 40832 (September 4, 1975) addressed the definition of property, explaining that "a producer must look to the limits of the right to produce crude oil in defining a particular property." [9] It was this right to produce crude oil that was emphasized in Ruling 1977–1, 42 FR 3628, 3633 (January 19, 1977):

> *The right to produce.* FEA Ruling 1975–15 made it clear that the property concept is one that begins with "the right *to produce crude oil.*" Consistent with the discussion above of the common meaning of that term as being generally synonymous with the concept of "working interest," the analysis of property will generally begin with identifying the one or more "premises" or "tracts" described in the instrument that confers the right to produce. Generally speaking, * * * the "premises" as to which the right to produce exists will generally be described in terms of surface acreage—commonly referred to as a "tract."

Ruling 1977–1, at 3631–2, also explained the manner in which a "property" was identified by associating it with the right to produce crude oil described in a lease:

> FEA has concluded that the literal meaning of the term "property," as defined by FEA, is generally to be understood as synonymous with the physical "tract" or "premises" as to which a working interest is established by an oil and gas lease, or by a fee interest * * *.
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> * * *. FEA has concluded that CLC (Cost of Living Council) by its definition of the term "property" intended to refer to the premises described in the oil and gas lease pursuant to which crude oil was being produced * */*.
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> The term "lease" has been generally defined, for purposes of oil and gas law, as "[t]he instrument by which a leasehold or working interest is created in minerals. * * *" *Williams and Meyers, Manual of Oil and Gas Terms* at 240–241 (3d ed. 1971).

Therefore, D. H. Hunt was required to determine his "properties" by referring to the limits of the right to produce crude oil as specified in the oil and gas leases applicable to the premises. This principle was consistently applied throughout the term of the crude oil

[2] Since D. H. Hunt only has produced crude oil from the Watson lease and the Scott lease #2, his interpretation request is limited to these two leases, although D. H. Hunt still possesses an interest in the Scott lease #1.

[3] This interpretation addresses only the circumstances set forth by D. H. Hunt under which the rights to produce crude oil constitute a "property." Unitized properties and certain other types of properties may be different from properties that were originally determined by the right to produce crude oil that existed in 1972. However, this interpretation does not address such circumstances.

[4] The Cost of Living Council (CLC) promulgated regulations applicable to the petroleum industry that included a definition of "property" which was set forth in 6 CFR 150.354(b), 38 FR 22538 (August 22, 1973). The definition of "property" adopted by the CLC was the same as the definition first adopted by the DOE.

[5] The definitions of "BPCL", "new crude oil" and "old crude oil" were set forth in 10 CFR 212.72.

[6] Lower tier ceiling prices were determined pursuant to 10 CFR 212.73.

[7] Upper tier ceiling prices were determined pursuant to 10 CFR 212.74.

[8] *Grigsby* v. *DOE*, 585 F.2d 1069, 1083 (1978), *cert. denied*, 440 U.S. 908 (1979).

[9] Ruling 1975–15 addressed the definition of "property" for purposes of computing "base production control level" (BPCL). BPCL was defined in 10 CFR 212.72 and basically referred to the number of barrels of domestic crude oil produced and sold from a property during 1972.

price regulations.[10] Changes in the right to produce crude oil as evidenced by a lease were determinative of the "property" from which crude oil was produced. Thus, changes occurring since 1943 in the rights to produce crude oil from the acreage which originally formed the Watson lease and the Scott lease #2 resulted in the formation of separate rights to produce that were considered to be separate properties pursuant to Subpart D.

Although all prior assignments of interests in the Watson lease and the Scott lease #2 had transferred the entire acreage of each lease intact, Conoco's 1953 "Partial and Conditional Assignment" to Trinity of 560 acres of the Watson lease and 600 acres of the Scott lease #2 divided into separate properties each of the original rights to produce from the 640 acre Watson lease and the 640 acre Scott #2 lease that were created by the 1943 leases. Conoco's 1943 leases, covering the Watson lease and the Scott #2 lease, were for 10 years and as long thereafter as drilling operations were conducted in good faith. D. H. Hunt contends that the requirement to continue drilling operations set forth in the original 1943 leases requires that those leases must be the basis for defining the properties for the petroleum price regulations. However, Conoco had conducted drilling operations and had continuing rights beyond the original 10 year period, under which it could convey an interest in the leases to Trinity in 1953. Conoco's retention of 40 acres and one well from the Scott lease #2 and 80 acres and two wells from the Watson lease when it transferred its interests to Trinity did not interfere with the original right to produce stemming from the leases executed in 1943. By Conoco's continued operation of portions of the original tracts it maintained the rights to the entirety of both tracts, any part of which it could legally assign to Trinity.

When Conoco executed the "Partial and Conditional Assignment" of its interests in the Watson lease and the Scott lease #2 to Trinity in 1953, it reserved three wells with 40 acres surrounding each and certain continuing rights. The principal rights that Conoco reserved were the right to receive royalties and the right to a reassignment of any interest in leased acreage that the Trinity desired to relinquish. In addition, the agreement contained some minor requirements obligating Trinity to drill test wells, survey the acreage, keep records, pay taxes and rentals, protect the acreage from drainage by wells on adjoining lands, plus several other requirements. D. H. Hunt contends that the nature of these rights and interests retained by Conoco indicates that a complete assignment was not intended. However, the retention of producing acreage and certain continuing rights set forth in the assignment agreement does not negate the conveyance of a leasehold interest to Trinity. Although all of the rights reserved by Conoco are not specifically addressed, Ruling 1977-1 makes clear that even the retention of the rights to receive royalties and to a reversionary interest in the leasehold are typical features of an oil and gas lease. Indeed, Ruling 1977-1, at 3634, states that:

> the modern oil and gas lease typically conveys a right to produce which must be exercised within a specific period in order for production rights to be retained by the lessee * * *. Accordingly, most oil and gas leases confer a right to produce as to an area within which exploration and development by the lessee can reasonably be expected within a reasonable time—five years is typical.

Thus, the DOE anticipated that leases could revert back to the lessor without affecting the limits of the right to produce described in the lease. Further, Ruling 1977-1, at 3629, makes it clear that "a share of production or proceeds * * * described as a 'royalty interest' " is "typically retained by the holder of the mineral interest." Moreover, the 1953 assignment agreement specifically construes Trinity's obligations and the interests reserved by Conoco as covenants and not as limitations on the title of the leases. Therefore, the DOE and the parties themselves recognized that the reservations expressed in the 1953 assignment agreement do not limit the transfer of title to a leasehold interest in the specified acreage. Indeed, the assignment is a lease that delineates separate rights to produce crude oil.

Accordingly, the 1953 assignment created two rights to produce from the Watson lease and separate rights to produce from the Scott #2 lease for purposes of the crude oil price regulations. With respect to the Scott lease #2, Conoco retained the right to produce crude oil from 40 acres surrounding Conoco well No. 1, and Trinity received an assignment of the right to produce crude oil from the balance of the 600 acres. Similarly, Conoco retained the right to produce crude oil from 40 acres surrounding each of Conoco's wells No. 1 and No. 2 on the Watson lease, and Trinity received an assignment of the right to produce crude oil from the balance of the 560 acres.

Thus, each of the successors to Trinity's interests in the Watson lease and the Scott #2 lease (i.e., Messrs. Rush and Hunt on August 20, 1954) received the right to produce crude oil set forth in the 1953 assignment to Trinity. From the facts presented, no additional transfers of interest in the premises occurred until the January 4, 1978 farm-out agreement under which D. H. Hunt acquired his interest. Therefore, for purposes of the Mandatory Petroleum Price Regulations the limits of the rights to produce crude oil set forth in Conoco's 1953 assignment of certain oil and gas leasehold interests in the Watson lease and the Scott lease #2 to Trinity define the properties from which crude oil prices were determined.

However, the farm-out agreement between Messrs. Rush and D. H. Hunt executed in 1978 did not create any separate "properties". The definition of "property" was not dependent on the continued effectiveness of a specific lease agreement. Accordingly, a farm-out agreement conferring a limited right to produce crude oil and involving the same acreage which constituted a "property" pursuant to Subpart D did not alter the existing "property."

Therefore, D. H. Hunt's production, which began in 1978 from the acreage subject to the farm-out agreement did not qualify as stripper well crude oil. Although Conoco certified as stripper well properties in 1973 and in 1978 the production from the wells it retains on acreage that was part of the Watson lease and the Scott lease #2 in 1943, the properties operated by D. H. Hunt were not identical with the rights to produce created by the leases executed in 1943. Thus, the rights to produce described in the December 4, 1953 assignment from Conoco to Trinity of a leasehold interest in 560 acres of the Watson lease and 600 acres of the Scott lease #2 defined the properties in which D. H. Hunt possesses an interest. Neither the 1978 farm-out agreement, nor any other assignments of interest that subsequently transferred the rights to produce from the acreage which originally formed the Watson lease and

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[10] *Indiana Farm Bureau Cooperative Association, Inc.*, Interpretation 1979-21, 44 FR 60270 (October 19, 1979); *John D. Manley III*, Interpretation 1978-15, 43 FR 19824 (May 9, 1978); *Texaco, Inc.*, Interpretation 1977-42, 42 FR 64104 (December 22, 1977); *Shell Oil Co.*, Interpretation 1975-4, 42 FR 23726 (May 10, 1977).

Further, Congress enacted the Energy Policy and Conservation Act, Pub. L. 94-163, which, *inter alia*, defined "old crude oil production" as "that volume of crude oil produced and sold from a property in a month which is equal to or less than the volume of old crude oil, as defined in § 212.72 of Title 10, Code of Federal Regulations (as in effect on November 1, 1975) * * * " Thus, Congress examined and approved of § 212.72 with the knowledge that it had been previously interpreted by the FEA. Moreover, Congress recently enacted the Windfall Profit Tax on Domestic Crude Oil Act, Pub. L. 96-223, 26 U.S.C. 4986 *et seq.* which explicitly adopted the DOE's regulatory definitions, including that for "property", as the basis for the new tax system.

the Scott lease #2 that Trinity received in 1953 created separate rights to produce that were separate properties pursuant to Part 212, Subpart D.

Issued in Washington, D.C., on June 24, 1981.

Lona L. Feldman,

Assistant General Counsel for Interpretations and Rulings.

Appendix B.—*Responses to Petitions for Reconsideration*

Petitioner	Interpretation	Date of response
The Crude Company	Giant Industries, Inc., 1981-2, 46 FR 27279 (May 18, 1981)	May 23.
Johnson Oil Co., Inc	Southwestern Refining Co., 1981-7, 46 FR 27283 (May 18, 1981).	June 16.

Interpretation: *Giant Industries, Inc.* 1981–2

Petitioner: The Crude Company

Date: May 23, 1981

This responds to The Crude Company's (TCC's) petition seeking reconsideration of *Giant Industries, Inc.*, Interpretation 1981–2, issued on January 6, 1981.

Interpretations issued by the Office of General Counsel of the Department of Energy (DOE) may be reconsidered only in certain limited circumstances. In such cases, the burden is on the petitioner to demonstrate that the interpretation was erroneous in fact or in law, or that the result reached in the interpretation was arbitrary or capricious. 10 CFR 205.85(f).

Interpretation 1981–2 concluded that paragraph 8 of the agreement between Giant Industries, Inc. (Giant) and TCC failed to specify a termination date and therefore Giant had not affirmatively consented to termination of the supplier/purchaser relationship in a manner consistent with the strict requirements of § 211.63(d)(1)(i).[1]

TCC's petition for reconsideration raises several arguments to support its view that Interpretation 1981–2 is erroneous in fact and law. TCC contends that the termination provisions of 10 CFR 211.63(d)(1)(i) were subject to a valid waiver of its protection by the voluntary and uncoerced act of the purchaser. TCC further contends that even if these provisions could not be waived, the termination provisions of the contract between it and Giant complied with the regulation.

Interpretation 1981–2 is correct in both fact and law. Giant could have waived its option to terminate its January 22, 1979 contract with TCC by giving its advance consent only if the express regulatory requirements set forth in § 211.63(d)(1)(i) were satisfied. Because the contract between Giant and TCC did not include a specific termination date, the termination provisions of the contract between Giant and TCC were insufficient to constitute such consent by Giant in accordance with the strict requirements of § 211.63(d)(1)(i).

Because TCC has failed to demonstrate that the Interpretation is erroneous in fact or in law, or that the Interpretation is arbitrary or capricious, the petition for reconsideration is denied. The denial of TCC's petition for reconsideration is a final order of the Department of Energy from which the petitioner may seek judicial review.

Petition for Reconsideration

Interpretation: *Southwestern Refining Co., Inc.*, 1981–7

Petitioner: Johnson Oil Co., Inc.

Date: June 16, 1981

This responds to Johnson Oil Company, Inc.'s (Johnson's) petition seeking reconsideration of *Southwestern Refining Co., Inc.* (Southwestern), Interpretation 1981–7, issued on March 12, 1981.

Interpretations issued by the Office of General Counsel of the Department of Energy (DOE) may be reconsidered only in certain limited circumstances. In such cases, the burden is on the petitioner to demonstrate that the interpretation was erroneous in fact or in law, or that the result reached in the interpretation was arbitrary or capricious. 10 CFR 205.85(f).

Interpretation 1981–7 concluded that since paragraph 8 of the contractual agreement between Southwestern and Johnson did not give notice of a specific termination date, Southwestern had not consented to termination of the supplier/purchaser relationship in a manner consistent with the strict requirements of § 211.63(d)(1)(i).

In support of its view that Interpretation 1981–7 is arbitrary and capricious and erroneous in fact and law, Johnson contends that DOE lacked the authority and jurisdiction to issue Interpretation 1981–7 and failed to inquire about or consider all relevant factors, and that paragraph 8 of the Southwestern/Johnson contract complied with the termination provision of § 211.63(d)(1)(i).

Interpretation 1981–7 is correct in both fact and law and is neither arbitrary nor capricious. The DOE has the primary responsibility to issue interpretations of its own regulations. *See* 10 CFR Part 205, Subpart F.

An interpretation is issued on the basis of the information provided in the request, unless that information is supplemented by other information brought to the attention of the General Counsel. *See* 10 CFR Part 205, Subpart F. The DOE had sufficient facts before it on which to base Interpretation 1981–7 and no additional information was brought to its attention at the time. Moreover, any new facts contained in Johnson's petition for reconsideration do not alter the conclusion reached in Interpretation 1981–7.

Southwestern could have given advance consent to terminate the Southwestern/Johnson contract, but only if the express regulatory requirements set forth in § 211.63(d)(1)(i) were satisfied. Because the contract between Southwestern and Johnson did not include a specific termination date, paragraph 8 was insufficient to constitute such consent by Southwestern in accordance with the requirements of § 211.63(d)(1)(i).

An interpretation does not take into account any hardship that might result to any person from the application of the regulations. Requests for exception from DOE regulations should be addressed to the Office of Hearings and Appeals.

Because Johnson has failed to demonstrate that Interpretation 1981–7 is erroneous in fact or in law, or that the interpretation is arbitrary or capricious, the petition for reconsideration is denied. The denial of Johnson's petition for reconsideration is a final order of the Department of Energy from which the petitioner may seek judicial review.

Appendix C.—*Cases Dismissed*

File No.	Requester	Category	Date dismissed
A-595	Kay Oil Co	Procedural	May 28.
A-600	Powerine Oil Co	Procedural	June 9.
A-633	Compton Corp	Price	June 17.
A-517	Risser Oil Corp	Allocation and price.	July 30.
A-472	Childress Oil Co	Allocation and price.	August 14.
A-506	Clardy Oil Co	Allocation and price.	August 14.

[1] Executive Order 12287, 46 FR 9909 (January 30, 1981) exempted all crude oil and refined petroleum products from the price and allocation controls adopted pursuant to the Emergency Petroleum Allocation Act of 1973 (EPAA), as amended, Pub. L. No. 93–159 (November 27, 1973), 15 U.S.C. § 751 *et seq.* (1976). This Order was effective at 12:01 a.m., January 28, 1981. Because the issue presented here for review, whether there was requisite consent to terminate the supplier/purchaser relationship by Giant, pertained to a period governed by the Mandatory Petroleum Allocation and Price Regulations, it is necessary to resolve the issue in order to determine whether TCC complied with the regulations during the period prior to January 28, 1981.

Appendix C.—*Cases Dismissed*—Continued

File No.	Requester	Category	Date dismissed
A-507....	Western Marketing, Inc.	Allocation and price.	August 14.
A-466....	Marshall Oil Corp.	Price.....	August 19.
A-467....	Marshall Oil Corp.	Price.....	August 19.
A-455....	Ezell Oil Co.....	Allocation and price.	August 19.

[FR Doc. 81-27218 Filed 9-17-81; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 526, 545, and 563

[No. 81-436]

Amendments on Rates of Return Payable on Savings Accounts

July 31, 1981.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final amendments.

SUMMARY: On June 25, 1981, the Depository Institutions Deregulation Committee adopted a schedule to phase out interest-rate ceilings on all savings accounts with fixed terms at depository institutions whose accounts are insured by either the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. It also removed the existing "cap" on the ceiling rate of return payable by such institutions on accounts of 2½ up to four years. Under the schedule, interest-rate ceilings on fixed-term savings accounts also would have been eliminated in steps over a four-year period. However, on July 31, 1981, the United States District Court for the District of Columbia ruled that the schedule was invalid insofar as it would have eliminated any differential in interest-rate ceilings for accounts in existence on December 10, 1975. Therefore, by its action today, the Board is conforming its regulations only to the Committee's action on accounts of 2½ up to four years. In addition, to grant institutions greater flexibility, the Board is authorizing the issuance of fixed-term accounts with variable rates and is permitting institutions to pay interest in the form of a discount for any account exempt from interest-rate ceilings.

EFFECTIVE DATE: August 1, 1981.

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

SUPPLEMENTARY INFORMATION:

Rate of Return

By the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221, tit. II; 94 Stat. 134 (1980)), Congress created the Depository Institutions Deregulation Committee (the "Committee") and transferred to the Committee the authority to limit the maximum rates of return payable on savings accounts at depository institutions whose accounts are insured by either the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC). At its meeting of June 25, 1981, the Committee removed the existing "cap" on the ceiling rate of return payable on small saver certificates ("SSCs") with an original maturity of 2½ years up to four years, and adopted a schedule to eliminate interest-rate ceilings entirely on all savings accounts with a fixed maturity. *See* 46 FR 37020 (July 17, 1981). The Committee provided that, effective August 1, 1981, institutions would be permitted to pay a rate tied to the average 2½-year yield on U.S. Department of the Treasury securities on SSCs with maturities of at least 2½ but less than 4 years, and would not be subject to a maximum rate limitation on certificate accounts of 4 years or more.

However, on July 31, 1981, the United States District Court for the District of Columbia, while upholding the Committee's action with respect to SSCs, declared the Committee's action adopting a schedule to eliminate interest-rate ceilings on all savings accounts with a fixed maturity to be invalid insofar as it would have eliminated any differential in interest-rate ceilings for accounts in existence on December 10, 1975, and directed the Committee to rescind its action. *United States League of Savings Associations* v. *Depository Institutions Deregulation Committee,* Civ. Action No. 81-1666 (D.D.C., July 31, 1981). This decision invalidated the Committee's action eliminating interest-rate ceilings for certificate accounts with an original maturity of four years or more which was to be effective on August 1, 1981. Therefore, the Board is conforming its regulations only to that part of the Committee action that was upheld by the District Court.

Sections 526.2 and 526.3 of the Regulations for the Federal Home Loan Bank System govern the rate of return payable on savings accounts by members of the Bank System other than mutual savings banks whose accounts are insured by the Federal Deposit Insurance Corporation or an institution whose home office is located in Guam. The regulations provide that member institutions may pay the maximum rate of return permitted by 12 CFR 1204.106 on savings accounts with maturities from 2½ up to 4 years. On savings accounts with maturities of 4 years or more, the rate limitations contained in § 526.3 continue to apply.

Fixed or Variable Rates

Board regulations governing the terms of fixed-term savings deposits of Federal associations (12 CFR 545.1-3, 545.2) and fixed-term accounts of insured institutions (12 CFR 563.3-1) provide only for the payment of interest at a fixed rate determined at the time the deposit was accepted. However, pursuant to § 526.3-1, no restrictions on maximum rates of return apply to certificate accounts of $100,000 or more ($50,000 or more if the issuing member's home office is in Puerto Rico) with a term of at least 14 days. In addition, effective August 1, 1981, members will be able to pay interest on SSCs at the average 2½-year yield on Treasury securities. In issuing these accounts, or other accounts, institutions may desire to pay interest at a rate that changes over the term of the deposit.

Accordingly, the board is eliminating the requirement that savings accounts with fixed terms also have fixed rates. Institutions may provide for payment of interest at: (1) A fixed rate, (2) a rate that varies according to a schedule, or (3) a rate that varies according to an index or formula. In any case, the rate, schedule, index or formula must be specified at the time the deposit is accepted and disclosed on the certificate or other evidence of account. This action permits institutions full flexibility in offering all types of accounts with fixed terms, including SSCs and certificate accounts of $100,000 or more, and reduces unnecessary restrictions on terms of savings accounts. However, for accounts subject to interest-rate ceilings, the rate of interest never may exceed the applicable ceiling rate.

Discounts

Current Board regulations (12 CFR 545.1-3, 563.3-1) permit the payment of interest on fixed-term savings accounts in the form of a discount only in the case of accounts exempt from rate ceilings because the amount received by the institutions exceeds $100,000 ($50,000 in Puerto Rico). These regulations have been amended to permit payment of interest in the form of a discount for any account exempt from the interest-rate ceilings regardless of the amount received by the institution. Although

only accounts in excess of $100,000 currently are exempt from interest-rate ceilings and the amendments do not change the effect of current regulations, the Board is taking this opportunity to relieve a potential restriction prospectively.

Other Amendments

In addition to the amendments described above, the Board is making technical amendments in provisions (12 CFR 545.1–1, 545.4, and 563.3–1) relating to early withdrawal that cross-reference 12 CFR 526.7 and has made conforming amendments in the provision (12 CFR 526.2) governing the rate payable on renewal of a certificate account. The Board also is restating in § 526.3 the reference rate for four-year accounts issued prior to January 1, 1980. While these accounts no longer may be issued, existing accounts may be renewed pursuant to § 526.2

The Board finds that notice and public procedure with respect to the amendments pursuant to 12 CFR 508.11 and 5 U.S.C. 553(b) is unnecessary because (1) the amendments conform the Board's regulations on rate limitations to regulations of the Committee and (2) it is in the public interest to give consumers the benefits of higher rates of return on savings and to give insured institutions increased flexibility in designing instruments to attract savings. The Board finds that the effective date of these amendments pursuant to 12 CFR 508.14 and 5 U.S.C. 553(d) is unnecessary for the same reasons and therefore makes these amendments effective August 1, 1981.

Accordingly, the Board hereby amends Parts 526, 545 and 563 of Subchapters B, C and D, respectively, Chapter V, of Title 12, *Code of Federal Regulations,* as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 526—LIMITATIONS ON RATE OF RETURN

1. Revise paragraph (a) and paragraph (b)(2) of § 526.2 to read as follows:

§ 526.2 Maximum rate of return.

(a) *Prohibition on paying more than the maximum prescribed rate.* No member shall pay a return, directly or indirectly, by any means whatsoever, exceeding the applicable maximum rate prescribed in this Part.

(b) *Exceptions.* * * *

* * * * *

(2) *Certificate account.* At the rate specified in the certificate, for such period, including any renewal period, as the account remains outstanding; except that:

(i) Six-month (26-week) certificate accounts issued pursuant to § 1204.104 of this title may not be issued or renewed at any rate in excess of the applicable maximum provided for by § 1204.104;

(ii) Certificate accounts with maturities of at least 2½ but less than 4 years issued pursuant to § 1204.106 of this title may not be issued or renewed at any rate in excess of the applicable maximum provided for by § 1204.106; and

(iii) Certificate accounts with maturities of 4 years or more and issued prior to January 1, 1980, subject to § 526.3(a)(6)(ii), may not be renewed at a rate in excess of the applicable maximum rate provided for by § 526.3(a)(6)(ii).

* * * * *

2. Revise paragraphs (a) and (c) of § 526.3 in their entirety to read as follows:

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

(a) A member may pay an annual rate of return (disregarding the effect of compounding) on savings accounts of less than $100,000 ($50,000 if the issuing member's home office is in Puerto Rico and the member does not advertise or promote the account outside Puerto Rico) not to exceed the following:

(1) 5.25 percent—on savings accounts subject to automatic transfers to the member or to a demand or deposit account of the same accountholder, made as a normal practice, pursuant to an agreement with the accountholder, to cover checks, drafts, or similar instruments drawn by the accountholder on the member;

(2) 5.50 percent—on regular accounts;

(3) 6.00 percent—on notice accounts, except public unit accounts which may receive a rate of return as provided in paragraph (c) of this section, and certificate accounts with a term or qualifying period of at least 90 days or more;

(4) 6.50 percent—on certificate accounts with a term or qualifying period of at least 1 year or more;

(5) 6.75 percent—on certificate accounts with a term or qualifying period of 30 months or more;

(6)(i) 7.50 percent—on certificate accounts with a term or qualifying period of 4 years or more; or

(ii) 1 percent below the average four-year rate based on the yield curve for United States Treasury securities as determined by the U.S. Department of the Treasury immediately prior to the first day of the month—on certificate accounts with a term or qualifying period of 4 years or more issued on or after the first day of the month: *Provided,* The account was issued prior to January 1, 1980, or renewed pursuant to paragraph (b)(2)(iii) of § 526.2. No addition to any such account shall be accepted during the term of the account.

(7) 7.75 percent—on certificate accounts with a term or qualifying period of 6 years or more;

(8) 8.00 percent—on certificate accounts with a term or qualifying period of 8 years or more; and

(9) Any rate prescribed by Part 1204 of this title.

* * * * *

(c) *Exceptions as to terms or qualifying periods.* A member may pay a rate of return not exceeding 8.00 percent on:

(1) A public unit account that is either a certificate account with a maturity of 14 days or more or a notice account, or

(2) A certificate account that qualifies as a retirement account under 401(d) or 408(a) of the Internal Revenue Code and has term of 3 years.

A member may pay any rate of return prescribed by paragraph (a)(6)(ii) of this section or Part 1204 of this title on a public unit account or certificate account that qualifies as a retirement account: *Provided,* That such account meets the applicable maturity requirements of those provisions.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

3. Revise paragraph (b)(4) of § 545.1–1 to read as follows:

§ 545.1–1 Rates of return on savings accounts.

* * * * *

(b) *Fixed-balance bonus account.* * * *

* * * * *

(4) If any part of a fixed-balance bonus account is withdrawn before expiration of the term, a penalty shall be applied in accordance with § 526.7 of this chapter. If earnings were distributed on the account before the withdrawal, deduction shall be made from the amount withdrawn to adjust for the applicable penalty.

* * * * *

4. Revise the first sentence of paragraph (a), and paragraph (b), of § 545.1–3; to read as follows:

§ 545.1–3 Fixed-term savings deposit.

(a) *General.* In addition to savings deposits authorized by § 545.1–2, a deposit association may accept savings deposits for fixed periods of time and

bearing rates of return as provided in paragraph (b) of this section. * * *

(b) *Payment of interest.* Subject to the provisions of Part 526 of this chapter, a deposit association may pay interest at the rate determined by the association at the time that the deposit is accepted in accordance with § 545.3. The annual rate of return paid on a savings deposit either may be fixed at the time the deposit is accepted or may vary according to a schedule, index or formula specified at the time the deposit is accepted. The term of such savings deposits shall be at least (1) 90 days or (2) 14 days for a public unit account as defined in § 526.1(m) or an account of $100,000 ($50,000 if the association's home office is in Puerto Rico) or more, but not more than 10 years. Such savings deposits may provide for renewal for successive periods not exceeding 10 years from each renewal. The return on such accounts may be in the form of discount only in the case of certificates exempt from the maximum rates of Part 526 of this chapter and Part 1204 of this title.

* * * * *

5. Amend § 545.2 by redesignating paragraph (c) and (d) as paragraphs (d) and (e), respectively, and by adding a new paragraph (c) thereto, to read as follows:

§ 545.2 Evidence of account.

* * * * *

(c) *Disclosure.* Each certificate evidencing a fixed-term savings deposit authorized under § 545.1–3 or a certificate account authorized under § 545.1–1(f) of this Part, whether incorporated in an account book or printed as a separate certificate, shall display in easily read type:

(1) The rate of interest to be paid, the basis, frequency, extent and limits of any variation in the rate over the term of the account, and the dates or frequency at which such return is distributable;

(2) The amount of the certificate and the date on which it is issued;

(3) The minimum term (or for a savings deposit, the term) and minimum balance;

(4) The penalty or penalties imposed under § 545.4 for withdrawal prior to expiration of the term;

(5) Any provisions relating to renewal when the term expires;

(6) Any provision relating to earnings after expiration of the term or any renewal period; and

(7) For fixed-term savings deposits, a provision converting the deposit at the expiration of the term or renewal, or whenever the minimum balance may cease to be met, to a regular savings deposit.

* * * * *

6. Revise paragraph (a)(1) of § 545.4 to read as follows:

§ 545.4 Withdrawals.

(a) *Withdrawal prior to expiration of term.* (1) If any part of a savings account authorized under § 545.1–1(f), or any part of a fixed-term savings deposit, is withdrawn before expiration of the term, a penalty shall be applied in accordance with § 526.7 of this chapter. If earnings were distributed on the account before the withdrawal, deduction shall be made from the amount withdrawn to adjust for the applicable penalty.

* * * * *

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

7 Revise § 563.3–1 to read in its entirety as follows:

§ 563.3–1 Fixed-term accounts (certificate accounts).

(a) *General.* A State-chartered institution which, in accordance with State law, may accept certificate accounts, as defined in Part 526 of this chapter, and whose board of directors has adopted a resolution providing for the issuance of such accounts, may, subject to the requirements of this section, issue certificate accounts in such form as the board of directors of the institution may determine.

(b) *Payment of interest or other earnings.* Subject to Part 526 of this chapter, an institution may pay earnings on a certificate account at the rate or anticipated rate of return determined at the time that the account is accepted. The rate or anticipated rate on a certificate account either may be fixed or may vary according to a schedule, index, or formula specified at the time that the account is accepted.

(c) *Limitations.* In issuing certificate accounts, no institution shall:

(1) Provide for the payment of interest or the distribution of earnings on any certificate account in excess of the applicable maximum rate of return prescribed in Part 526 of this chapter;

(2) Issue any negotiable form of certificate evidencing a certificate account, except in compliance with § 545.1–4, in the case of a Federal association, or § 563.3–3, in the case of a State-chartered insured institution, of this chapter;

(3) Accept any fixed-term account of less than $100,000 for a term of less than 90 days (14 days for a public unit account as defined in § 526.1(m) of this chapter) or more than 10 years;

(4) Accept any fixed-term account of $100,000 or more for a term of less than 14 days or more than 10 years;

(5) Provide for withdrawal from any certificate account prior to the expiration of its term, except as provided in paragraph (f) of this section;

(6) Issue any certificate account that is subject to redemption;

(7) Issue any form of certificate account, unless the institution has first:

(i) Obtained a written legal opinion of its counsel that such certificate complies with the requirements of applicable law and regulations and the institution's charter and bylaws, which opinion shall be retained by the institution as long as it continues to issue certificates in such form; and

(ii) Submitted a copy of such certificate, together with a copy of such legal opinion, to the Federal Savings and Loan Insurance Corporation: *Provided,* That such legal opinion need not be obtained if the institution uses a form of certificate which has been approved by the Corporation for use by insured institutions in the State where such institution is located; or

(8) Pay a return in the form of a discount, except in the case of certificates exempt from the maximum rates of return of Part 526 of this chapter and Part 1204 of this title.

(d) *Disclosure.* Each certificate account shall include in its provisions and display in easily-read type:

(1) The rate or anticipated rate of earnings to be paid, the basis, frequency, extent and limits of any variation in the rate of return over the term of the account, and the dates or frequency at which earnings are distributable;

(2) The amount of the account and the date on which it is issued;

(3) The term of the account;

(4) The penalty for withdrawal prior to maturity of the account;

(5) Any provisions limiting the right of the holder to withdraw all or any portion of the account prior to its maturity;

(6) Any minimum balance requirement;

(7) Any provisions relating to a renewal at maturity of the account;

(8) Any provisions relating to the rate of return to be paid after maturity of the account; and

(9) A provision converting the certificate account at its maturity, or at the time that any applicable minimum balance requirement ceases to be met, to the status of a regular account as defined in § 526.1(d) of this chapter.

(e) *Renewal.* Any certificate account may provide for renewal at the option of the institution for successive periods not exceeding 10 years for each renewal.

(f) *Withdrawals prior to maturity.* (1) Each certificate issued by an institution, other than an institution whose principal office is located on Guam, shall provide that, for any withdrawal of all or any part of the certificate account before maturity, a penalty shall be imposed in accordance with § 526.7 of this chapter. If any earnings were distributed on the account before withdrawal, deduction shall be made from the amount withdrawn to adjust for the applicable penalty.

(2) In the case of early withdrawal of only a part of such account, the certificate account shall be canceled if the applicable minimum balance requirement ceases to be met. If such requirement continues to be met: (i) Appropriate notation may be made on the certificate indicating the amount and date of such withdrawal and the remaining account balance, or (ii) the certificate may be canceled and a new certificate issued for the remaining portion of the account with the same term, rate and dates as on the canceled certificate.

(3) A certificate account may provide that the owner cannot withdraw any portion of such account prior to maturity except under such circumstances as may be set forth therein: *Provided* That no certificate may prohibit withdrawal in the event of death or adjudication of incompetence of an account owner.

8. Revise paragraph (d)(1) of § 563.3–2 to read as follows:

§ 563.3–2 Certificates evidencing other accounts.

* * * * *

(d) *Provisions relating to early withdrawal.* (1) Each certificate issued by an institution, other than an institution whose principal office is located on Guam, shall provide that, for any withdrawal of any part of a certificate account before expiration of the term, a penalty shall be applied in accordance with § 526.7 of this chapter. If any earnings were distributed on the account before the withdrawal, deductions shall be made from the amount withdrawn to adjust for the applicable penalty.

* * * * *

(Sec. 203, Pub. L. 96–221, 94 Stat. 132 (12 U.S.C. 3502); sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 5, 48 Stat. 132, as amended (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. 81–27219 Filed 9–17–81; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

[IRPS 81–7]

Sale-and-Leaseback Arrangements, Interpretive Ruling and Policy Statement

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interpretive ruling and policy statement.

SUMMARY: This document defines sale-and-leaseback transactions as falling within the provisions of Section 107(4) of the Federal Credit Union Act (12 U.S.C. 1757(4)) and § 701.36 of the National Credit Union Administration Rules and Regulations (12 CFR 701.36). It describes conditions which are necessary to constitute a valid sale-and-leaseback arrangement. The document cautions *all* federally insured credit unions against improperly constructed sale-and-leaseback arrangements that would subject the credit unions and the National Credit Union Share Insurance Fund, to undue risks and losses, resulting therefrom. Implementation of an improperly constructed sale-and-leaseback transaction could cause the National Credit Union Administration Board to take administrative action under the provisions of Section 206(b)(1) of the Federal Credit Union Act (12 U.S.C. 1786(b)(1)) for unsafe and unsound practices.

EFFECTIVE DATE: September 18, 1981.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Harry E. Moore, Accounting Officer, Office of Examination and Insurance, telephone number (202) 357–1065.

SUPPLEMENTARY INFORMATION:

1. Background Information

In recent years credit unions have experienced a decline in share growth. This decline caused credit unions to seek borrowed capital from outside sources at high interest costs to satisfy members' needs. During the same period, credit unions have had to compete for deposits with other financial institutions by offering high dividend rates. To meet this cost-price squeeze, some federally insured credit unions turned to sale-and-leaseback transactions. Sale-and-leasebacks offered the potential for immediate significant gains that could be used for dividends. Factors disregarded in some cases were: the collectibility of the note offered in payment, the time value of money, the ability to foreclose on the collateral, and the liability incurred as a result of the lease.

Examinations of Federal credit unions and federally insured state-chartered credit unions that have entered into sale-and-leaseback arrangements have disclosed questionable arrangements that have been characterized as sale-and-leaseback transactions. The arrangements are similar in nature in that each involves: a long-term note that has a maturity ranging from approximately 25 to 30 years; a short-term lease ranging in maturity from approximately 1 to 5 years; an interest rate on the note that appears to be significantly below the market interest rates for similar transactions; a borrowing of the downpayment; a downpayment that is significantly below the amount that would be required for the type of financing and property involved; and a senior lien which subjects the seller-lessee to a second lien on the building sold. The National Credit Union Administration has reviewed the economic substance of these transactions and has considered the views of accounting specialists in other federal financial institution regulatory agencies, representatives of the American Institute of Certified Public Accountants, representatives of private industry, as well as published interpretations of sale-and-leaseback transactions from the accounting industry, and recent court decisions. The National Credit Union Administration Board has interpreted these arrangements as being contrary to the definition of a valid sale-and-leaseback arrangement as stated herein. The arrangements have thus been deemed financing transactions rather than sale-and-leaseback transactions. In addition, the resulting gains from some of these transactions were recognized over the periods of the short-term leases, rather than over the amortization schedules of the above-mentioned notes. Thus, due consideration was not given to capitalization techniques and the time value of money in accordance with generally accepted accounting practices. Giving consideration to the latter, some of the recorded gains would actually result in significant losses.

The National Credit Union Administration Board recognizes the

benefits of sale-and-leaseback transactions when they are properly arranged and constructed. Sale-and-leaseback arrangements, when properly planned, can provide liquidity by freeing up capital that is concentrated in fixed assets. Sale-and-leaseback arrangements, when properly planned and carried out, can provide the necessary funds to improve the credit union's earnings capabilities during a period of inflationary pressures. The National Credit Union Administration Board wants to emphasize that a sale-and-leaseback arrangement must not be constructed and implemented for the sole purpose of obtaining a one-time significant gain for the purpose of providing immediate earnings for current dividends. Such an arrangement may have a detrimental impact on the long-term operations of the credit union.

In those cases where credit union officials are uncertain as to whether a contemplated sale-and-leaseback conforms with this Interpretive Ruling and Policy Statement, the National Credit Union Administrative Board encourages those officials to submit the sale-and-leaseback plan to the appropriate National Credit Union Administration Regional Office of review before the transaction is finalized. Such requests for review will be given prompt attention by regional office staff.

2. Purpose

The purpose of this Interpretive Ruling and Policy Statement is to advise the public and credit union officials as to what the National Credit Union Administrative Board considers to be a valid sale-and-leaseback arrangement, the proper accounting treatment, and the required components of the arrangement.

Text of Interpretive Ruling and Policy Statement [IRPS 81-7]

In accordance with Section 107(4) of the Federal Credit Union Act (12 U.S.C. 1757(4)), "A Federal credit union * * * shall have power * * * to purchase, hold and dispose of property necessary or incidential to its operations." The National Credit Union Administration Board interprets this provision to include a Federal credit union's authority to enter into a sale-and-leaseback transaction, as herein defined. The authority for federally insured state-chartered credit unions to enter into such an activity would depend on state statutes and the credit union's respective state regulatory authority. The implementation of a sale-and-leaseback transaction requires a thorough knowledge of all the risks, accounting and legal interpretations, and the advantages and disadvantages of entering into such a transaction on a long-term basis. The National Credit Union Administration Board has thus approved this Interpretive Ruling and Policy Statement for implementing a sale-and-leaseback transaction, with special emphasis being placed on the requirements for a valid sale-and-leaseback transaction. The NCUA Board recognizes that Federal credit unions have entered into sale-and-leaseback transactions in the past and wishes to caution *all* federally insured credit union that it may interpret any past, present, and future sale-and-leaseback arrangements that are structured contrary to the provisions of this Interpretive Ruling and Policy Statement as being comprised of "unsafe and unsound" business practices. They may thus be subject to administrative remedies available to the NCUA Board, in accordance with Section 206(b)(1) of the Federal Credit Union Act (12 U.S.C. 1786(b)(1)). The National Credit Union Administration Board also interprets § 701.36 of the National Credit Union Administration Rules and Regulations as being applicable to sale-and-leaseback arrangements and transactions. Sale-and-leaseback transactions must thus be structure in accordance with the text that follows:

a. *Definitions.*

(1) *Sale-and-Leaseback Transaction:* Involves a two-step transaction that is essentially a financial management device. It involves the outright sale of property to an investor and the granting of a lease by the purchaser to the seller so that all the normal risks of ownership are retained by the purchaser.

(2) *Substance Over Form:* The economic substance of a sale-and-leaseback transaction should determine the timing, recognition, amount, and the designation of revenue. The economic or financial substance of a transaction may differ from its actual legal form. For example, a sale-and-leaseback transaction that involves a legal form of a sale may actually be, in economic substance: a construction contract; a lease of a property; and agreement to loan or borrow funds; an agreement to establish a joint venture; an agreement to divide profits in a specified ratio; a deposit on or an option to purchase an asset; a sale of something such as depreciation; a transfer of other tax deductions for income tax purposes; or a right to participate in the profits from operating an asset other than the asset that is the apparent object of the sale.

b. *Conditions Conducive To Entering Into a Sale-and-Leaseback Transaction.*

When a credit union builds its own building, it plans for the cost of the building by projecting income, expenses, share and loan growth over a period of time, generally 5 to 10 years. These projections are usually based on the historical performance over the previous years. When the projections are made there is no way of positively knowing what the economic situation will be at the end of the projected period. Therefore, some credit unions may find that, because of errors in estimating growth or because of other causes, they are unable to use the space that they had planned to use in future years, and in the meantime, had been renting to others. Other credit unions may have experienced periods of declining shares due to local, regional, or national economic downturns. These credit unions may thus be in a position of borrowing funds from outside sources at high interest costs. Those costs may exceed the interest income being received from loans granted to credit union members. Such credit unions are confronted with reduced earnings to pay competitive dividends and also with liquidity problems insofar as meeting members' loan and share withdrawal needs. When the credit union officials look at the overall situation they may determine that they have encountered a tight money and earnings situation that is not expected to improve over the short run. Therefore, when they weigh their alternatives they might find that the only prudent decision is to sell the credit union's fixed assets to improve its liquidity position and earnings capabilities. A sale-and-leaseback transaction is an excellent means of converting nonearning fixed assets into cash. It is a long-term commitment, however, and it requires careful and thorough preparation. Thus, in constructing a sale-and-leaseback transaction, one must consider not only what the consequences will be tomorrow, but also what the impact of the sale-and-leaseback arrangement will be, for example, 20 years from now.

A sale-and-leaseback arrangement involves selling the credit union's building for the best possible price, negotiating a lease to cover a sufficiently long period of time, preserving the credit union's earnings capabilities, and providing a sufficient amount of liquidity to satisfy members' needs in order to retain their confidence in the credit union.

c. *Requirements for a Valid Sale-and-Leaseback Transaction.*

(1) *Long-Range Planning.*

A sale-and-leaseback arrangement involves long-range planning that could

involve projections for periods as long as 10 to 20 years. The projections need to include estimates of the growth of shares, loans, income, and expenses. They must also include the planned activities of the credit union so that the projections will include the estimated costs of those activities and any income that will be derived therefrom.

(2) *Appraisals by Qualified Independent Appraisers.*

Appraisals must be made of the properties being sold and the lease being negotiated to determine whether the lease costs are comparable to the cost of available lease space in other buildings in the vicinity of the credit union's building. The appraisal should be signed and certified by an independent real estate appraiser who is a member of the Society of Real Estate Appraisers bearing the designation of "SRPA" or "SREA" or who is a member of the American Institute of Real Estate Appraisers bearing the designation of "MAI"

The Society of Real Estate Appraisers is a society composed of senior residential appraisers, senior real property appraisers, and senior real estate analysts. The senior residential appraiser (SRA) is a professional who has chosen to specialize in the appraisal of residential properties. A senior real property appraiser (SRPA) is a professional who has chosen to specialize in appraisals of income-producing properties rather than residential properties. The training and educational program necessary to achieve this designation instructs the member in the appraisal of both residential and income-producing real estate. The Senior Real Estate Analyst (SREA) is an SRPA whose practice has expanded to include all forms of appraisals as well as analytical assignments. Advanced education and experience are only two of the qualifications necessary for this unique designation. In addition, the analysts must demonstrate capability in investment analysis, marketability studies, feasibility studies, etc.

The American Institute of Real Estate Appraisers consists of members who have proved their ability to appraise varied types of property (MAIs) and those members who are specialists in appraising single- to four-family properties (RMs).

Appraisal Methodology. Three approaches to value form the foundation for current appraisal theory. These approaches are the cost approach, the market approach, and the income approach.

The cost approach is based upon the proposition that the informed purchaser will pay no more than the cost to produce a substitute property with the same utility as the subject property. It is particularly applicable when the property being appraised involves new improvements which represent the highest and best use of the land or when relatively unique or specialized improvements are located on site for which no comparable properties exist on the market.

The market approach utilizes prices paid in actual market transactions of similar properties to estimate the market value of the subject property. This appraisal technique is dependent upon utilizing truly comparable data for sales which have occurred near enough in time to reflect market conditions relative to the time period of the subject appraisal. In essence, all approaches to value are market data approaches, since the data input is from current market conditions.

The income approach is widely applied in appraising income producing properties. Anticipated present and future income as well as any future reversions are discounted to the present value figures through the capitalization process. This approach also relies on market data to establish current economic rents and expense levels to arrive at the expected net income.

(3) *Comparability Between the Maturity of the Note and the Term of the Lease.*

For an arrangement to be considered a sale-and-leaseback transaction the definition of a sale-and-leaseback transaction must be considered. A sale-and-leaseback transaction is essentially a financial management device. It involves the outright sale of property to an investor and the granting of a long-term lease by the purchaser to the seller so that all normal risks of ownership are retained by the purchaser. When the lease is of a short-term nature, and the sale involves a long-term note, it is *not* considered to be a valid sale-and-leaseback transaction.

When the lease obligation is unduly short (unless the institution has firm documented plans to vacate upon the expiration of the lease), and the lease payments clearly guarantee the financial substance of the transaction, a sale-and-leaseback is a financing transaction. In other words, when a long-term note is offered (as indicated above) in partial payment of a purchase of fixed assets, and the corresponding lease is of a short-term nature, any resulting gain would be amortized in proportion to the amortization schedule of the note.

In making the note comparable to the lease term, it must be remembered that it is possible to make the lease terms too long, thus, causing the arrangement to also be called a financing transaction. For example, when the lease term extends for more than 75 percent of the estimated useful life of a building, or the present value of the future base rental payments exceed 90 percent or more of the fair market value, the lessor has transferred to the lessee substantially all the benefits and risks incident to ownership of the property. This is in accordance with the AICPA's Financial Accounting Standards Board (FASB) Statement No. 13, "Accounting for Leases." When the FASB standards are compared to tax and Uniform Commercial Code interpretations, they create an invitation for a court to find that many real estate sale-and-leasebacks, unless they were carefully structured at inception, are disguised mortgage loans. Quite often courts considered the parties' accounting treatment of a sale-and-leaseback as an indication of their substantive intention. For these reasons, the maturity of the note must be comparable to the term of the lease.

(4) *Multiple Bids and Offers for the Building.*

The more offers and bids the credit union receives, the better the credit union officials will be able to determine which sale-and-leaseback transaction is the most beneficial for the credit union and its members. The time period allowed for accepting bids should be sufficient to allow potential buyers to prepare and present their bids for consideration. The bids and offers will aid in verifying the accuracy of the appraisal of the credit union's building.

(5) *The Economics of the Lease.*

As part of arranging for the sale-and-leaseback transaction, the credit union officials must determine, through an appraisal process, what the market lease cost is for their present building. This may be accomplished by having the appraisal prepared on the basis of two premises: (1) that the credit union will continue to occupy the existing space, paying an economic rent at the terms and conditions typical of the current rental market for commercial office space; and (2) that the credit union will vacate the building, and that the space will be placed on the open market at an appropriate economic rent for non-credit union tenant(s).

If a negotiation of a sale-and-leaseback transaction results in a lease cost that is near market, or slightly below market, and the appraisal of the building is equal to market value, the only negotiable terms are the maturity of the transaction (note and/or lease) and the interest rate. The maturity of the

transaction will generally follow the lending practices of commercial lenders for the type of transaction.

(6) *Minimum Downpayment Requirements.*

Minimum downpayment requirements must be in accordance with the AICPA's Industry and Accounting Guide for "Accounting for Profit Recognition on Sales of Real Estate." Minimum downpayment requirements are found in the main text and in Exhibit A of that publication. That publication indicates that if a single tenancy is involved, and the user has a satisfactory credit rating, that the downpayment will be 15 percent of the sales value, while other properties will have a downpayment requirement of 20 percent of the sales value.

(7) *Comparability Between the Master Lease and Any Subleases.*

If the sale-and-leaseback arrangement includes a master lease that covers additional office space that can be subleased, the maturities of the subleases must be comparable to that of the master lease. In other words, the master lease could not be for a period of 5 years while the subleases are for a period of 30 years, inclusive of all options. If that were the case, the credit union holding the master lease may not be able to renew its lease and may have to depart from the building when it was still responsible for the subleases.

(8) *Documentation as to Market Interest Rate.*

When a sale-and-leaseback arrangement involves a note, the remaining negotiable items would be the maturity of the note, the maturity of the lease, or the interest rate on the note. The interest rate on the note should be comparable to interest rates granted on loans to parties having good credit ratings for similar type transactions within the community in which the credit union's property is located. If the interest rate is below the market interest rate for that type of transaction, there must be documentation as to why the interest rates are below market. It is not in the interest of credit union members to underbid the interest rate on a particular note, with the credit union as lessee. If the interest rate is understated, the credit union members may not receive the amount of dividends that they are entitled to because of the size and maturity of the note. Therefore, the credit union officials have an obligation to make certain that the interest rate on the note approximates the market rate that could be obtained by the lessor if he were to borrow the funds elsewhere. When a credit union negotiates a sale-and-leaseback transaction that involves a note that is payable back to the credit union, and the interest rate on the note is below market, it must document the reasons why that interest rate on the note is below market. Any resulting gain from the transaction would be subject to the AICPA's Opinion No. 21, "Interest on Receivables and Payables," thus causing a reduction in the amount of gain that is recognized at the time of sale.

(9) *Arm's Length Transaction.*

For a sale-and-leaseback transaction to be considered valid, it must be a transaction that is conducted at arm's length. In other words, the transaction must be reflective as though an independent lender-lessee and independent borrower-purchaser negotiated a similar transaction, under comparable terms and conditions, with the option to pay the credit union the cash price upon actual purchase or to give a note for the amount of the purchase at the prevailing rate of interest to maturity. The transaction should not be connected with any credit union officials, employees, or their relatives, nor should any credit union officials, employees, or their relatives derive monetary benefits from the transaction.

(10) *Right of Tenancy for the Seller.*

Each federally insured credit union that is involved in a sale-and-leaseback transaction must make certain that the contracts involving the arrangement include the right of tenancy for the selling federally insured credit union. That tenancy should approximate the maturity of any existing note, unless otherwise documented.

(11) *Escalator Clauses—Cost of Living Adjustments.*

In order to encourage the lessor to keep the credit union's building in a condition that is near to its original state, and to encourage an investor to become involved in a sale-and-leaseback arrangement because of higher investment earnings, it may be necessary for a seller-lessee to provide for an inflation hedge. This inflation hedge provides additional incentive over and above that which is afforded by ownership of the real estate, itself. This may be accomplished by increasing the monthly rental payments according to the Wholesale or the Consumer Price Index. It might also be accomplished by establishing periodic rental increases based on an originally agreed upon scale. If the rental increase was based on a percentage of the gross or net income of the credit union, however, the arrangement would be considered improper for a federally insured credit union, since that action would result in the assigning of earnings. If earnings increased as the result of more efficient management, the lessor would benefit partially from the change, when the credit union member should benefit fully from such an improvement.

(12) *No Repurchase Agreements.*

For a valid sale-and-leaseback arrangement to exist there should not be any provision in the lease or the sales agreement giving the federally insured credit union the right to purchase the building back at a future date. (In accordance with the AICPA Industry Accounting Guide entitled "Accounting for Profit Recognition of Sales of Real Estate.") A repurchase agreement may imply that the original purchaser never intended to assume the responsibilities of ownership of the building. Therefore, the validity of the sale-and-leaseback transaction is questionable and may be subject to accounting for the transaction as a financing, leasing, or profit sharing arrangement. However, this does not preclude a "right of first refusal" clause in the event that the buyer sells the property at a future time. This accounting treatment is applicable when:

(a) A seller has an obligation or an option to repurchase the property;

(b) A buyer has an option to compel the seller to repurchase the property; or

(c) A seller guarantees the return of the buyer's investment.

(13) *Adherence to Generally Accepted Accounting Practices.*

The sale-and-leaseback transaction must be accounted for in accordance with generally accepted accounting practices. This applies, except when statutory or regulatory requirements prevail. The sale-and-leaseback transaction must take into account the AICPA's Accounting Principles Board Opinion No. 21, "Interest on Receivables and Payables", the AICPA's Financial Accounting Standards Board's Statement No. 13, "Accounting for Leases," and the AICPA Industry Accounting Guide entitled, "Accounting for Profit Recognition on Sales of Real Estate."

(14) *No Senior Liens.*

A sale-and-leaseback transaction involving federally insured credit unions must not include any senior liens. In other words, the purchaser must not make a downpayment with borrowed money, whereby the lender of the downpayment would obtain a lien superior to that of the lending credit union who is the seller-lessee, assuming the purchaser offers a note in partial payment of the purchase price of the asset.

(15) *Adherence to Court Decisions Interpreting and Defining Valid Sale-and-Leaseback Transactions.*

For a sale-and-leaseback transaction to be considered valid for a federally insured credit union, the sale-and-leaseback transaction must be in accordance with applicable laws and legal precedent that define the essence of a sale-and-leaseback transaction.

(16) *Recognition of Profits and Losses in Accordance With Generally Accepted Accounting Practices.*

Profits and losses on sale-and-leaseback transactions will be recognized and accounted for in accordance with the AICPA's Financial Accounting Standards Board Statement No. 13, "Accounting for Leases," its Accounting Principles Board Opinion No. 21, "Interest on Receivables and Payables," and its Industry Accounting Guide, "Accounting for Profit Recognition on Sales of Real Estate." If a loss is indicated by the arrangement, the loss will always be recognized.

The above-mentioned Industry Accounting Guide emphasizes the following:

(a) To recognize a profit on the sale of real estate, the buyer's initial investment and his continuing investment must be adequate to demonstrate his commitment to pay for the property. To be considered adequate the following factors must be considered:

(1) The relative size of the buyer's downpayment conpared to the sales value of the property; and

(2) The composition of the downpayment. Funds that have been borrowed by the purchaser, or provided indirectly by the seller, cannot be included in determining the buyer's investment in the property.

(b) Profit recognition should be postponed if the seller must perform a significant part of the contract after the time of sale.

(c) The sales contract should not be accounted for as a sale if the seller's continued involvement carries in essence the same kinds of risks as does ownership of the property.

(d) The seller can only recognize profit on the sale of real estate if the buyer is required to continue to increase his investment in the property each year after he pays an adequate downpayment.

When the buyer borrows the necessary funds from the selling credit union, the credit union will defer the gain over the term of the lease or over the term of the note, whichever is longer. Deferred gains will be recognized in proportion to the aggregate cash received (including the downpayment to the total sales price of the property).

d. *Summary.* This Interpretive Ruling and Policy Statement provides the essential information requirements and considerations for credit unions contemplating sale-and-leaseback transactions. It is, again, emphasized that sale-and-leaseback transactions that are implemented by federally insured credit unions, which are contrary to the provisions stated in this text, may be considered unsafe and unsound practices by the National Credit Union Administration Board in accordance with section 206(b)(1) of the Federal Credit Union Act (12 U.S.C. 1786(b)(1)).

Rosemary Brady,

Secretary of the NCUA Board.

September 11, 1981.

[FR Doc. 81-27162 Filed 9-17-81; 8:45 am]

BILLING CODE 7535-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 122

[Rev. 3, Amdt. 16]

Business Loans

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This amendment to Part 122 establishes the regulations for loans to Employee Stock Ownership Plans or other employee benefit plans that can be treated as Employee Stock Ownership Plans. This final rule considers the written and oral comments received in response to the proposed rule that was published in the Federal Register on September 17, 1980 (45 FR 61637).

EFFECTIVE DATE: September 18, 1981.

FOR FURTHER INFORMATION CONTACT: Questions regarding this final rule may be directed to: Richard L. Wray, Financial Analyst (202) 653-6470.

SUPPLEMENTARY INFORMATION: SBA received three (3) written responses and one oral response to the proposed rule. In addition, discussions within SBA developed modifications in the proposed rule.

The final rule has placed the definitions ahead of the policy portion, reversing the order of the proposed rule. It appeared that the definitions added to an understanding of the policy statement and should appear first. An administrative change has been made by designating the sections in this part in the 300 series whereas the proposed rule was published as the 200 series.

One comment indicated that, since SBA definitions do not follow those in the Internal Revenue Code or in the Treasury Department or the Department of Labor Regulations, there is confusion about whether SBA is amending the definitions of these other agencies. To clarify this question, the final rule refers to other definitions, when appropriate, or states that the SBA definition is for loan purposes only. SBA has neither the intention nor the authority to amend the definition of terms used in the regulations of other agencies. In some cases, the SBA definition or requirement is more restrictive than another agency's. This is necessary for the loan to comply with SBA loan policy and is not intended to amend or otherwise modify the requirements of any other regulation.

Written comments also pointed out that the proposed rule appeared to impose conditions on all employer securities held by the trust, not just those acquired with SBA guarantee loan funds. The final rule has been amended to clarify that our regulation applies only to the employer securities that are purchased with SBA guarantee loan funds.

The proposed rule referred to specific Internal Revenue Code citations which appeared in the Act. Written comments pointed out that the citations were incomplete unless additional Internal Revenue Code Section or Treasury Department and Department of Labor regulations were also incorporated. The final rule, therefore, refers to the requirements of the three agencies without specific citations.

One respondent suggested that SBA list all corporate actions that require the participants to direct the trust on the manner of voting. Since the laws of the various states are not uniform and the charter or by-laws of the various employers can impose different requirements, it is not possible for SBA to list all of the specific actions which would be subject to this requirement in every situation.

In § 122.303(a) SBA recognized, too late to change the proposed regulation, that our requirements went beyond the scope of the legislation. This was also pointed out in the written comments. As amended, the final rule no longer requires a qualifying trust to have sufficient shares to give it negative control in case of a sale. To give the employee participants some voice in their job future we have added two provisions—§ 122.306(a) (7) and (8)—that allow them a right of first refusal in case of voluntary sale or liquidation and that prevent the employer from limiting the amount of voting control that a trust or employee benefit plan can acquire.

The final rule contains a new section, 122.304, entitled Amount and Term. An oral suggestion was received that the obligation of the employee organization should be considered independently of

any obligations of the small business to SBA. The wording of the enabling legislation prevents SBA from taking this posture. The law states (1) that a loan to an employee organization should be treated as a loan to the small business concern and (2) that these loans are 7(a) loans. Therefore, the loans to the employer, employee organization and any other affiliates must be considered together and all such loans, combined, are subject to a single $500,000 limit. The maturity of these loans is limited to 25 years.

This regulation applies only to the maximum loan maturity under section 7(a) and does not, in any way, modify the regulation of any other agency.

As the proposed rule was written, it appeared that the voting requirements applied only after the employer securities were allocated (generally not until the loan is paid and all encumbrances are released). Also, it appeared that the transfer of ownership was not accomplished until all securities purchased with loan proceeds had been allocated. The final rule (§ 122.306) clarifies that the employee participants direct the voting of the employer securities that have been or will be allocated to their individual accounts and that the change of ownership is accomplished as soon as the securities are registered in the trust's name. It is the intent of SBA that employee participants will determine how shares purchased with SBA loan funds will be voted and to avoid a situation where a trustee is unduly influenced by the employer in voting these shares.

An oral question was presented requesting clarification of when an SBA loan guarantee is made for the purpose of a major change of ownership. The question related to a situation where a trust borrows with an SBA guarantee for growth purposes. If, due to previous stock acquisitions, the stock purchased with the loan proceeds represented between 50 percent and 51 percent could SBA make the loan? While the regulation does not specifically address this situation, SBA will consider the intended use of proceeds as the determining factor. If the loan purpose is to provide funds for corporate growth, not to effect a majority change of ownership, the percentage of stock owned by the employee organization after the transaction would not be a material factor.

Accordingly, pursuant to the authority contained in sections 3(c)(3) and 5(b)(6) of the Small Business Act [115 U.S.C. 631 *et seq.*], Part 122, Chapter I, Title 13 of the Code of Federal Regulations, is hereby amended as follows:

1. Present Part 122 is amended by designating it as Subpart A.

2. Subpart B is added and reserved.

3. A new Subpart C is added to read as follows:

PART 122—BUSINESS LOANS

* * * * *

Subpart C—Loans to Qualified Employee Trusts

Sec.

122.301 Statutory provisions.
122.302 Definitions.
122.303 Policy.
122.304 Amount and term (maturity).
122.305 Applicability of other SBA regulations.
122.306 Eligibility.
122.307 Change of ownership.
122.308 Credit requirements.
122.309 Application procedure.

Subpart C—Loans to Qualified Employee Trusts

§ 122.301 Statutory provisions.

The statutory authorities for these loans appear at 15 U.S.C. 632(c), and 636(a).

§ 122.302 Definitions.

These definitions are used to clarify this regulation and supplement, but do not amend or modify, the Internal Revenue Code or Treasury Department or Labor Department definitions in their ESOP or ERISA (Employee Retirement Income Security Act of 1974) regulations. As used in this Subpart:

Act means the Small Business Act, 15 U.S.C. 631 *et seq.*

Employee means, in the case of a loan not involving a change of majority ownership of the employer concern's voting stock, every person who has been on the payroll of the employer concern as a permanent, full-time employee in any capacity for at least 30 days prior to the date SBA receives the application for a loan guarantee. In case of a loan guarantee to an employee trust to effect a change of the majority ownership (at least 51 percent) of the employer concern, employee means every person on the payroll of such concern as a permanent, full-time employee in any capacity at the time such majority ownership is acquired. (Any person who has worked, or is hired to work, 1,000 or more hours over 12 consecutive months is considered a full-time, permanent employee.)

Employee Organization means an entity representing at least 51 percent of the employees of the employer concern and which maintains a trust treated as an employee trust.

Employee Trust means a qualified employee trust or a trust (described in § 122.306(b)) maintained by an employee organization.

Employer Concern means the present, or prospective, small business concern with respect to which an employee trust is receiving an SBA loan guarantee. It does not include a proprietorship, partnership, cooperative or other form of business organization.

ESOP means an employee stock ownership plan as defined in the Internal Revenue Code, Treasury Department regulations and Department of Labor regulations.

Qualified Employee Trust means, with respect to a small business concern, a trust which forms a part of an ESOP (or a part of an employee benefit plan that is treated as an ESOP for SBA loan guarantee purposes):

(a) Which is maintained by such concern;

(b) Which represents at least 51 percent of the employees;

(c) Which provides that each plan participant is entitled to direct the plan how to vote the qualifying employer securities which are or will be (as the SBA guarantee loan is repaid and encumbrances are removed) allocated to the account of such participant with respect to corporate matters which by law, charter or by-laws must be decided by a majority vote of outstanding qualifying employer securities voted; and

(d) Which the Internal Revenue Service has qualified in writing or which has been exempted in writing from appropriate Labor Department regulations governing Employee Benefit Plans under ERISA.

Qualifying Employer Securities means, for SBA purposes, an employer security which is (a) stock or otherwise an equity security or (b) a bond, debenture, note, certificate or other evidence of indebtedness which is described in the ESOP provisions of the Internal Revenue Code. Warrants and options are excluded.

Small Business Concern means a corporation organized or chartered under State law that is eligible for an SBA guaranteed loan under section 7(a) of the Act.

§ 122.303 Policy.

Subject to the limitations in this Subpart, SBA may guarantee a loan under section 7(a) of the Act:

(a) To a qualified or other employee trust which may be treated as a qualified employee trust that represents at least 51 percent of the employees and that is maintained by a continuing small business concern which is seeking to

finance its corporate growth through the use of a loan from the trust; or

(b) To a qualified or other employee trust representing at least 51 percent of the employees to purchase at least 51 percent of the voting control of a business operated for profit which is (1) a small business concern or (2) a business controlled by another person or entity if, after the purchase is accomplished, such business would be a small business concern.

§ 122.304 Amount and term (maturity).

(a) *Amount.* SBA can guarantee obligations of the employee organization, the employer and all other affiliates in a combined amount not to exceed $500,000.

(b) *Maturity.* These loans have a maximum maturity of 25 years.

§ 122.305 Applicability of other SBA regulations.

All regulations of this chapter applicable to borrowers under section 7(a) of the Act shall apply to the employer concern except as provided in this section.

(a) The borrower receiving these loan guarantees must be an eligible employee trust as described in this subpart.

(b) SBA's assistance is available only as a loan guarantee (deferred participation).

(c) Repayment ability shall be based on the reasonable prospects of success of the employer concern.

(d) Personal guarantees of the participants in the plan and trust, including those having managerial responsibilities, shall not be required as a condition of the loan guarantee.

(e) The individual business experience or personal assets of the employee-owners shall not be used as criteria in determining whether to guarantee a loan; in the case, however, where certain employee-owners may assume managerial responsibilities, SBA may consider business experience.

(f) An employee trust may apply for a loan guarantee to purchase a business which, by reason of affiliation with another person or entity, is other than small if, after the purchase is accomplished, such business would be an eligible small business concern. Such purchase shall be deemed accomplished when at least 51 percent of the total voting stock of the employer concern is registered in the name of the trust to be allocated to the accounts of at least 51 percent of the employees no later than the date the guaranteed loan is repaid or as soon thereafter as is consistent with provisions in the Internal Revenue Code and regulations thereunder.

§ 122.306 Eligibility.

(a) *Qualified Employee Trust.* A qualified employee trust shall be eligible for an SBA loan guarantee to assist a small business employer concern if the trustee of the trust enters into an agreement with SBA which is binding on both the trust and the small business concern and which provides that:

(1) The SBA guaranteed loan shall be used solely for the purchase of qualifying employer securities,

(2) The employer concern agrees to use funds received from the employee trust solely for the business purposes for which the loan was guaranteed,

(3) The employer concern agrees to provide the funds necessary for the trust to repay loan principal plus interest,

(4) The property of the employer concern shall be available as security for repayment of the loan,

(5) All unencumbered qualifying employer securities acquired by the trust using SBA guarantee loan funds shall be allocated to the accounts of plan participants who are entitled to share in the allocation,

(6) Each plan participant has a nonforfeitable (vested) right, not later than the date such loan is repaid, to all such allocated qualifying employer securities which are acquired with SBA guarantee loan funds,

(7) The employer concern agrees that an employee organization owning less than 51 percent of the voting control will have a 90 day "right of first refusal" before the business is relocated, sold, liquidated or otherwise loses its identity as an independently owned and operated small business concern by any means other than court action, and

(8) The employer concern has placed no maximum or minimum limits on the percentage of voting stock that the employee organization is allowed to purchase and control.

(b) *Trust equivalent to a qualified employee trust.* A trust may be treated as a qualifying employee trust for the purposes of an SBA loan guarantee if:

(1) Such trust is maintained by an employee organization which represents at least 51 percent of the employees of such concern:

(2) The trust is part of a plan which constitutes an employee benefit plan under the Department of Labor (DOL) regulations implementing ERISA or has a written DOL exemption from such regulations and the plan:

(i) Is designed to invest primarily in qualifying employer securities,

(ii) Provides that each plan participant is entitled to direct the trustee in the manner of voting all qualifying employer securities acquired with SBA loan guarantee funds that have been or, as the SBA loan is repaid, will be allocated to the participants' accounts, on all corporate matters which, by law, charter or by-laws, must be decided by a majority vote of the qualifying employer securities voted.

(iii) Which provides that each participant who is entitled to distribution from the plan has a right, with respect to qualifying employer securities not readily tradable on an established market, to require that the employer concern repurchase such securities under either a fair valuation formula, appraisal requirement or other method any of which the Internal Revenue Service or the Labor Department has accepted in writing, and

(iv) Which provides procedures for including future employees in the plan, and

(3) The trust, with respect to an SBA loan guarantee, enters into an agreement with SBA setting forth the provisions outlined in paragraph (a) of this section.

§ 122.307 Change of ownership.

When the purpose of a loan guarantee to an employee trust is to purchase at least 51 percent of the stock for the benefit of at least 51 percent of the employees of a small business concern or a business controlled by another person or entity, the trustee must include, without limitation, in a proposed agreement with SBA to be submitted with the application for the guarantee the requirements that:

(a) Subsequent to such purchase, the small business will be a corporation which is:

(1) A small business concern, and

(2) Is not under the effective control (as defined in Part 121 of this Chapter), directly or indirectly, of the seller, and

(b) Not later than the date the guaranteed loan is repaid (or as soon thereafter as is consistent with the requirements of the Internal Revenue Code of 1954) at least 51 percent of the total voting stock of the small business shall be allocated to the accounts of at least 51 percent of the employees,

(c) There will be annual reviews by the plan participants or by the trustee of the role of the employees in the management of such concern,

(d) There will be adequate management to assure management expertise and continuity, and

(e) The trustee shall report annually to the lender with respect to the requirements of this section.

§ 122.308 Credit requirements.

(a) *Management ability.* The small business concern must maintain adequate managerial ability which may

be derived from contracts with employee-owners, or from others. The individual business experience of employee-owners may be considered only when such persons assume managerial responsibilities. An employee trust relying on the expertise of other than employee-owners shall endeavor to train employee-owners for management responsibilities in order to accelerate the assumption of managerial responsibilities by employee-owners no later than the date the guaranteed loan is repaid.

(b) *Repayment ability.* In determining whether there exists a reasonable assurance of repayment by the employee trust pursuant to § 122.305(c), SBA shall consider the earnings history and projected future earnings of the employer concern together with its ability to make the necessary payments to the trust. An employee trust owning less than 51 percent of the total stock of the employer concern may—but is not required to—provide a plan whereby contributions from the participants to the trust will supplement the small business concern's payment in order to establish repayment ability.

(c) *Personal resources.* In determining whether to guarantee any loan under this Subpart C, SBA shall not consider the personal assets of employee-owners or other owners of the small business concern. The terms of the loan may require, however, that the small business concern dispose of assets not required by it in the conduct of its business or not reasonably necessary to its potential healthy growth.

(d) *Competitiveness.* The trustee must document in the application that funds generated from the employee trust will enable the small business concern to overcome present competitive difficulties, if any, which may have an adverse impact on the small business concern's prospects of success, including (without limitation) plant obsolescence or the need for regulatory compliance.

§ 122.309 Application procedure.

Applications for these loans shall be submitted by a participating lender following the procedures for all section 7(a) guaranteed loans, including (without limitation) proof of refusal of the required financial assistance as specified in § 120.2(a)(1) of these regulations. Applications shall be made on SBA Forms 4 and 4I, which are incorporated herein by this reference, and shall include the agreement described in § 122.306 or § 122.307

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

Date: September 9, 1981.

Michael Cardenas,

Administrator.

[FR Doc. 81-27270 Filed 9-17-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 151

[T.D. 81-240]

Customs Regulations Amendments Relating to the Examination of Merchandise; Correction

AGENCY: Customs Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: This document corrects the text of a final rule concerning the Customs Regulations relating to the examination of merchandise which was published as T.D. 81-240 (FR Doc. 81-2460) in the Federal Register on September 10, 1981 (46 FR 45128).

FOR FURTHER INFORMATION CONTACT: Lawrence P Dunham, Regulations Control Branch, Customs Service (202-566-8237).

The following correction is made to the final rule document:

On page 45130 left-hand column, the sentence under the caption "AMENDMENTS TO THE REGULATIONS" is corrected to read "Sections 151.1 and 151.2(a), Customs Regulations (19 CFR 151.1, 151.2(a)), are revised to read as follows:"

Dated: September 14, 1981.

Steven I. Pinter,

Acting Director, Regulations Control and Disclosure Law Division.

[FR Doc. 81-27216 Filed 9-17-81; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Certification of True Copies

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority regarding certification of true copies and use of the Department seal. On June 19, 1981, the Acting Director, Office of Management, Public Health Service issued a new delegation of authority relating to certification of true copies which superseded the previous delegation and all redelegations. This amendment reestablishes the redelegations of authority to certify true copies and use the Department seal to officials in the agency. Position and organization titles have been corrected where appropriate.

EFFECTIVE DATE: September 18, 1981.

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

SUPPLEMENTARY INFORMATION: Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in that position in an acting capacity or on a temporary basis.

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Therefore, under the Federal Food, and Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 5 is amended by revising § 5.22 to read as follows:

§ 5.22 Certification of true copies and use of Department seal.

(a) The following officials are authorized to certify true copies of or extracts from any books, records, papers, or other documents on file within the Food and Drug Administration, to certify that copies are true copies of the entire file, to certify the complete original record, or to certify the nonexistence of records on file within the Food and Drug Administration, and to cause the seal of the Department to be affixed to such certifications:

(1) Associate and Deputy Associate Commissioners.

(2) The Director of the Executive Coordination Staff of the Office of Policy Coordination.

(3) Executive Officer, Office of the Commissioner.

(4) The Director of the Division of Management Systems and Policy of the Office of Management and Operations and the Chief of the Dockets Management Branch of that Division and Office.

(5) The Director of the Freedom of Information Staff of the Office of Public Affairs.

(6) The Executive Director and Deputy Executive Director of Regional Operations; and the Associate Director for Administration, the Associate Director and Deputy Associate Director for Field Support, and the Associate Director for Federal-State Relations of the Executive Director of Regional Operations.

(7) The Director and Deputy Director of the Bureau of Drugs; and the Director of the Office of Planning, Evaluation, and Management, the Associate Director and Deputy Associate Director for Compliance, and the Directors of the Divisions of: Methadone Monitoring; Drug Quality Evaluation; Drug Labeling Compliance; and Drug Quality Compliance of that Bureau.

(8) The Director and Deputy Director of the Bureau of Foods; and the Associate Director for Planning and Operations, the Associate Director for Compliance, and the Directors of the Divisions of: Regulatory Guidance; Food Technology; and Cooperative Programs of that Bureau.

(9) The Director and Deputy Director of the Bureau of Radiological Health; and the Associate Director for Management and Systems and the Director of the Division of Compliance of that Bureau.

(10) The Director and Deputy Director of the Bureau of Biologics; and the Associate Director for Compliance and the Director of the Division of Compliance of that Bureau.

(11) The Director of the Bureau of Veterinary Medicine; and the Executive Officer, the Associate Director and Deputy Associate Director for Surveillance and Compliance, and the Director and Deputy Director of the Division of Compliance of that Bureau.

(12) The Director and Deputy Director of the Bureau of Medical Devices; and the Assistant Director for Program Operations, the Associate Director for Compliance, and the Director of the Division of Compliance Operations of that Bureau.

(13) The Director and the Director of the Office of Management of the National Center for Toxicological Research.

(14) Regional Food and Drug Directors and District Directors.

(15) Director, Winchester Engineering and Analytical Center.

(16) Director, Minneapolis Center for Microbiological Investigations.

(b) The following officials are authorized to cause the seal of the Department to be affixed to agreements, awards, citations, diplomas, and similar documents:

(1) Associate and Deputy Associate Commissioners.

(2) The Director of the Division of Personnel Management of the Office of Management and Operations.

(c) The Federal Register Writer and his/her alternates of the Office of Regulatory Affairs are authorized to certify true copies of Federal Register documents.

Effective date. This regulation shall be effective September 18, 1981

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: September 9, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs

[FR Doc. 81-26936 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 436, 442, 446, 449, 450, and 455

[Docket No. 81N-0215]

Antibiotic Drugs; Updating and Technical Changes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic regulations by making corrections, by updating, and by making minor noncontroversial technical changes in the regulations providing for the certification of antibiotic and antibiotic-containing drugs for human use. These changes will result in more accurate and usable regulations that reflect current certification practices.

DATES: Effective September 18, 1981; comments, notice of participation, and request for hearing by October 19, 1981; data, information, and analyses to justify a hearing by November 17, 1981.

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

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA is amending the antibiotic drug regulations by making corrections, by updating, and by making minor noncontroversial technical changes in several antibiotic drug regulations that provide for certification of antibiotic and antibiotic-containing drugs intended for human use. To aid in understanding the types of changes included in this document, the changes have been grouped into three general classes for discussion in this preamble: Monograph corrections, updating, and technical changes.

Monograph Corrections

1. In § 436.105 (a) and (b), the tables are corrected by alphabetically inserting the item "Natamycin" into the tables. Paragraph (b) is also corrected by adding the item "Not dried" in the second column and changing the footnote reference from "5" to "6". These items were published in the Federal Register on November 28, 1978 (43 FR 55382), but were inadvertently omitted from the Code of Federal Regulations.

2. In § 442.25a(a)(1)(vii), the word "sodium" is added to state clearly that the amount of test method sample is measured in weight, not activity.

3. In §§ 446.275a, 446.275b, 446.276a, and 446.276b, in paragraph (b)(1) of each section, the figure in the last sentence is corrected. The figure appeared correctly in the Federal Register published on March 17, 1978 (43 FR 11151), but was incorrectly printed in the Code of Federal Regulations.

4. In § 446.381b(b)(3), the test method reference is corrected.

5. In § 449.120d, the second paragraph (b)(1)(ii) is removed. It was correctly removed in the Federal Register published on April 6, 1979 (44 FR 20659), but was inadvertently printed in the Code of Federal Regulations.

6. In § 450.220(b)(5), the test reference is corrected to refer to the appropriate test method.

7. In § 455.310a, paragraph (b)(1)(i) and (ii) is removed. It was correctly removed in the Federal Register published on December 19, 1978 (43 FR 59057), but was inadvertently printed in the Code of Federal Regulations.

Updating

1. In § 442.25a, the heading and the first sentence in paragraph (a)(1) are updated by moving the word "sodium" to follow the word "cephalothin" to reflect current nomenclature.

2. In § 450.220, the last sentence in paragraph (a)(1) is updated by referencing the dactinomycin used in the preparation of the injectable dosage form to the requirements for crystallinity in the bulk drug monograph.

Technical Changes

1. In § 436.105(a), the inoculum size for the item "Natamycin" in the seventh column in the table is revised from 0.25 milliliter to 0.8 milliliter to reflect the amount of inoculum currently used in the FDA laboratory.

2. In § 436.204(b)(1), the diluent for the item "Dicloxacillin", in the third column

in the table is changed from distilled water to buffer to correspond with the current laboratory method.

3. In § 446.150(a)(1), the limit for moisture content for methacycline hydrochloride capsules is raised from 5.0 to 7.5 percent. The sole manufacturer has submitted adequate stability data to support the higher limit.

4. In §§ 446.275a, 446.275b, 446.276a, and 446.276b, in the last two sentences of paragraph (b)(1) in each section, the word "sterile" is deleted in reference to sterile distilled water in the description of the sample preparation. A study by FDA's laboratory, the National Center for Antibiotics Analysis, demonstrates that distilled water used in the microbiological turbidimetric assay of rolitetracycline need not be sterile.

5. In § 446.381b(b)(1), the first sentence is revised to provide for the use of polysorbate 80. The addition of polysorbate 80 greatly facilitates the handling of the assay solution of tetracycline hydrochloride ophthalmic suspension and reflects the official method.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701(f), (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f), (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. Part 436 is amended:

a. In § 436.105(a) and (b), by alphabetically inserting the item "Natamycin" in the respective tables to read as follows:

§ 436.105 Microbiological agar diffusion assay.

* * * * *

(a) * * *

Antibiotic	Media to be used (as listed by medium number in § 436.102(b))		Milliliters of media to be used in the base and seed layers		Test organism	Suggested volume of standardized inoculum to be added to each 100 milliliters of seed agar (milliliters)	Incubation temperature for the plates (degrees C.)
	Base layer	Seed layer	Base layer	Seed layer			
Natamycin	None	19	None	8	E	0.8	29–31

(b) * * *

Antibiotic	Working standard stock solutions				Standard response line concentrations		
	Drying conditions (method number as listed § 436.200)	Initial solvent	Diluent (solution number as listed in § 436.101(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Diluent	Final concentrations, units or micrograms of antibiotic activity per milliliter
Natamycin	Not dried		Dimethylsulfoxide	1 mg[6]	Use same day	10	3.20, 4.00, 5.00, 6.25, 7.81 µg. (Prepare the standard response line solutions simultaneously with the sample solution to be tested using red low actinic glassware. Use solutions within 2 hours after preparation.)

[6] Further dilute aliquots of the working standard stock solution with dimethylsulfoxide to give concentrations 64.0, 80.0, 100, 125, and 156 micrograms per milliliter.

§ 436.204 [Amended]

b. In § 436.204 *Iodometric assay,* paragraph (b)(1) is amended in the table in the third column for the item "Dicloxacillin" by changing the entry "Distilled water" to "1"

PART 442—CEPHA ANTIBIOTIC DRUGS

2. Part 442 is amended in § 442.25a by revising the heading of the section, by revising the first sentence in paragraph (a)(1), and by revising paragraph (a)(1)(vii) to read as follows:

§ 442.25a Sterile cephalothin sodium.

(a) * * * (1) *Standards of identity, strength, quality, and purity.* Sterile cephalothin sodium is the sodium salt of the compound formed by reaction of thiophene-2-acetic acid with 7-amino-cephalosporanic acid. * * *

* * * * *

(vii) The specific rotation in an aqueous solution containing 50 milligrams of cephalothin sodium per milliliter at 25° C is +129°±5°.

* * * * *

PART 446—TETRACYCLINE ANTIBIOTIC DRUGS

3. Part 446 is amended:

a. In § 446.150a(a)(1), by revising the fourth sentence to read as follows:

§ 446.150a Methacycline hydrochloride, capsules.

(a) * * * (1) *Standards of identity, strength, quality, and purity.* * * * The moisture content is not more than 7.5 percent. * * *

* * * * *

b. In § 446.275a by revising the last two sentences in paragraph (b)(1) to read as follows:

§ 446.275a Rolitetracycline for intravenous use.

* * * * *

(b) * * * (1) *Potency.* * * * Dilute the sample thus obtained with sufficient distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 0.24 microgram of rolitetracycline per milliliter (estimated).

* * * * *

c. In § 446.275b by revising the last two sentences in paragraph (b)(1) to read as follows:

§ 446.275b Rolitetracycline for intramuscular use.

* * * * *

(b) * * * (1) *Potency.* * * * Dilute the sample thus obtained with sufficient distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 0.24 microgram of rolitetracycline per milliliter (estimated).

* * * * *

d. In § 446.276a by revising the last two sentences in paragraph (b)(1) to read as follows:

§ 446.276a Rolitetracycline nitrate for intravenous use.

* * * * *

(b) * * * (1) *Potency.* * * * Dilute the sample thus obtained with sufficient distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 0.24 microgram of rolitetracycline per milliliter (estimated).

* * * * *

e. In § 446.276b by revising the last two sentences in paragraph (b)(1) to read as follows:

§ 446.276b Rolitetracycline nitrate for intramuscular use.

* * * * *

(b) * * * (1) *Potency.* * * * Dilute the sample thus obtained with sufficient distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 0.24 microgram of rolitetracycline per milliliter (estimated).

* * * * *

f. In § 446.381b, by revising the first sentence in paragraph (b)(1) and by revising paragraph (b)(3) to read as follows:

§ 446.381b Tetracycline hydrochloride ophthalmic suspension.

* * * * *

(b) * * * (1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place an accurately measured representative portion of the sample into a high-speed glass blender jar with 1 milliliter polysorbate 80 and sufficient 0.1*N* hydrochloric acid to give a stock solution of convenient concentration containing not less that 150 micrograms of tetracycline hydrochloride per milliliter (estimated). * * *

* * * * *

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

§ 449.120d [Amended]

4. Part 449 is amended in § 449.120d by removing the second paragraph (b)(1)(ii).

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

5. Part 450 is amended in § 450.220 by revising the last sentence in paragraph (a)(1) and by revising paragraph (b)(5) to read as follows:

§ 450.220 Dactinomycin for injection.

(a) * * * (1) * * * The dactinomycin used conforms to the standards prescribed by § 450.20a(a)(1)(i), (v), (vi), and (vii).

* * * * *

(b) * * *

(5) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

* * * * *

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

§ 455.310 [Amended]

6. Part 455 is amended in § 455.310a *Chloramphenicol ophthalmic solution* by removing paragraph (b)(1)(i) and (ii).

These amendments are corrective, editorial, or of a minor technical nature. Because the amendments are not controversial and because when effective they provide notice of accepted standards, FDA finds that notice and public procedure and delayed effective date are unnecessary and not in the public interest. The amendments, therefore, are effective September 18, 1981. However, interested persons may, on or before October 19, 1981, submit to the Dockets Management Branch (address above), written comments on these amendments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before October 19, 1981, a written notice of participation and request for hearing, and (2) on or before November 17, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the fact of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order, with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective September 18, 1981.

(Secs. 507, 701 (f), (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f), (g)))

Dated: September 9, 1981.

Mary A. McEnıry,

Assıstant Director for Regulatory Affaırs, Bureau of Drugs.

[FR Doc. 81-26937 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 455

[Docket No. 81N-0251]

Antibiotic Drugs; Rifampin Capsules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the certification of a new strength of refampin capsule. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective September 18, 1981; comments, notice of participation, and request for hearing by October 19, 1981; data, information, and analyses to justify a hearing by November 17, 1981.

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

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new strength (150 milligrams) of rifampin capsule. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when the drug is used as directed in the labeling and that the regulations should be amended in Part 455 (21 CFR Part 455) to provide for its certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 455 is amended in § 455.170a by revising the second sentence in paragraph (a)(1) to read as follows:

§ 455.170a Rifampin capsules.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* * * * Each sample contains 150 milligrams or 300 milligrams of rifampin.* * *

* * * * *

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act, FDA permits the manufacturer to market this drug on a "release" status pending the regulation's becoming effective. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective September 18, 1981. However, interested persons may, on or before October 19, 1981, submit written comments on this rule to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before October 19, 1981, a written notice of participation and request for hearing, and (2) on or before November 17, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective September 18, 1981.

(Secs. 507, 701(f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f) and (g)))

Dated: September 10, 1981.

Mary A. McEnıry,

Assıstant Director for Regulatory Affaırs, Bureau of Drugs.

[FR Doc. 81-26910 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Citrate Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Wellcome Animal Health Division, Burroughs Wellcome Co. The NADA provides for the use of diethylcarbamazine citrate tablets for the prevention of heartworm disease and as an aid in the control of ascarid infections in dogs and cats.

EFFECTIVE DATE: September 18, 1981.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: The Wellcome Animal Health Division, Burroughs Wellcome Co. (Burroughs Wellcome), Kansas City, MO 64108, filed an NADA (124–842) providing for the use of Filban Tablets (diethylcarbamazine citrate tablets). The tablets contain 60, 120, or 180 milligrams (mg) of diethylcarbamazine citrate and are labeled for the prevention of heartworm disease caused by *Dirofilaria immitis* in dogs, as an aid in the control of ascarid infections caused by *Toxocara canis* in dogs, and as an aid in the treatment of ascarid infections caused by *Toxocara canis* and *Toxascaris leonina* in dogs and cats.

The product is similar to another tablet that was the subject of a National Academy of Sciences/National Research Council (NAS/NRC) review published in the Federal Register of January 8, 1969 (34 FR 275). The NAS/NRC review stated, and the agency concurred, that the drug is effective as an aid in the treatment of ascarid infections in dogs and cats when administered at 25 to 50 mg per pound of body weight as a single dose with a repeat dose given after 10 to 20 days. Sponsors of NADA's for products that did not reflect the conclusions of the review were required to update their application by submitting revised labeling or adequate documentation to support the labeling used. Those sponsors whose NADA's satisfied the requirements of the NAS/NRC review or were found equivalent to the NAS/NRC reviewed products are codified in the regulations in 21 CFR 520.620 and 520.622.

An NAS/NRC review of a diethylcarbamazine medicated premix was published in the Federal Register of June 16, 1970 (35 FR 9869). The review concluded that the product is probably effective as an aid in the prevention and elimination of large roundworms in dogs when given as directed in feeds. The agency upon review of additional data concluded that the product is effective for this purpose. The review established the effectiveness of the drug for use in the prevention of ascarid infections.

Burroughs Wellcome submitted data from a controlled artificial challenge study and from published literature to demonstrate that their product is safe and effective for the prevention of heartworm disease (*Dirofilaria immitis*) in dogs. The agency has granted a waiver from the requirements of 21 CFR 514.111(a)(5)(ii) for further efficacy studies regarding use of the drug for this use. The ascarid claims are approved on the basis of the NAS/NRC reviews.

The agency concludes that the NADA establishes safe and effective uses for Filban Tablets. The application is approved and the regulations amended to reflect the approval.

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

The Director, Bureau of Veterinary Medicine, has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Director's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f) (1) and (2) and (g)) may be seen in the Dockets Management Branch, Food and Drug Administration.

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

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 21 CFR 5.1; see 46 FR 26052; May 11, 1981)), and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.622a by adding new paragraph (a)(5) to read as follows:

§ 520.622a Diethylcarbamazine citrate tablets.

(a) Sponsors. * * *

(5) See 000081 in § 510.600(c) of this chapter for use of 60, 120, or 180 milligram tablets for prevention of heartworm disease in dogs, as an aid in the control of ascarid infections in dogs, and as an aid in the treatment of ascarid infections in dogs and cats.

* * * * *

Effective date. September 18, 1981.

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

Dated: September 11, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-26985 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Styrylpyridinium Chloride and Diethylcarbamazine Film-Coated Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by American Cyanamid Co. providing for use of film-coated tablets containing styrylpyridinium and diethylcarbamazine as an aid in the control of large roundworms and hookworms and in the prevention of heartworm disease in dogs.

EFFECTIVE DATE: September 18, 1981.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, filed an NADA (121–813) providing for use of film-coated tablets containing styrylpyridinium and diethylcarbamazine as a combination oral anthelmintic in dogs. The film-coated tablets contain the equivalent of 50 milligrams of styrylpyridinium chloride and 60 milligrams of diethylcarbamazine citrate for daily treatment of dogs weighing 20 pounds, or 87.5 milligrams of styrylpyridinium chloride and 105 milligrams of diethylcarbamazine citrate per 35 pounds, or 125 milligrams of styrylpyridinium chloride and 150 milligrams of diethylcarbamazine citrate per 50 pounds, or 162.5 milligrams of styrylpyridinium chloride and 195 milligrams of diethylcarbamazine citrate per 65 pounds. The tablets are new formulations of approved drugs which are currently codified as 21 CFR 520.2160a and 520.2160b. The new formulations incorporate the same drugs, in similar amounts, at similar dosages, and for similar uses. In approving this application the Director

of the Bureau of Veterinary Medicine has waived, as provided in 21 CFR 514.111(a)(6), the requirement to perform adequate and well-controlled studies to demonstrate the effectiveness of the product. The new formulation (NADA 121-813) is supported by in vitro bioequivalency studies and has been adequately shown to be safe for its intended uses.

The NADA is approved and the regulations amended to reflect the approval.

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

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

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

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

Therefore, under the Federal Food, Drug, and Cosmetic Act [sec. 512(i), 82 Stat. 347 [21 U.S.C. 360b(i)]] and under authority delegated to the Commissioner of Food and Drugs [21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)], and redelegated to the Bureau of Veterinary Medicine [21 CFR 5.83], Part 520 is amended by adding new § 520.2160d, to read as follows:

§ 520.2160d Styrylpyridinium, diethylcarbamazine film-coated tablets.

(a) *Specifications.* Each film-coated tablet contains the equivalent of 50 milligrams of styrylpyridinium chloride and 60 milligrams of diethylcarbamazine citrate, or 87.5 milligrams of styrylpyridinium chloride and 105 milligrams of diethylcarbamazine citrate, or 125 milligrams of styrylpyridinium chloride and 150 milligrams of diethylcarbamazine citrate, or 162.5 milligrams of styrylpyridinium chloride and 195 milligrams of diethylcarbamazine citrate.

(b) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* The equivalent of 2.5 milligrams of styrylpyridinium chloride and 3 milligrams of diethylcarbamazine citrate per pound of body weight per day.

(2) *Indications for use.* Administer to dogs as an aid in the control of large roundworms (*Toxocara canis*) and hookworms (*Ancylostoma caninum*) and in the prevention of heartworm disease (*Dirofilaria immitis*).

(3) *Limitations.* Dogs with established heartworm infections should not be treated until they have been converted to a negative status. Administration to heartworm infected dogs may cause adverse reactions due to pulmonary occlusion.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation is effective September 18, 1981.

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

Dated: September 11, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-26986 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Fair Housing and Equal Opportunity

24 CFR Part 115

[Docket No. R-81-915]

Recognition to Fair Housing Laws of States and Localities as Being Substantially Equivalent to Title VIII

AGENCY: Office of Fair Housing and Equal Opportunity, Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This rule amends current regulations which provide for recognition of State and local fair housing laws which provide rights and remedies substantially equivalent to those provided by Title VIII of the Civil Rights Act of 1968. The amendment grants recognition to additional jurisdictions which now meet the legal and performance standards for recognition.

EFFECTIVE DATE: September 13, 1981.

FOR FURTHER INFORMATION CONTACT: Steven J. Sacks, Director, Federal, State and Local Programs Division, Fair Housing Enforcement and Section 3 Compliance, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451-7th Street, SW., Washington, D.C. 20410 (202) 426-3500. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On April 16, 1981, the Department of Housing and Urban Development published in the Federal Register (46 FR 22204) a notice of proposed rulemaking that pursuant to Section 810(c) of Title VIII of the Civil Rights Act of 1968, as amended, it was proposing to grant recognition to the fair housing laws of two States and nine localities as being substantially equivalent to Title VIII. The evaluation of the fair housing laws of these two States and nine localities was conducted in accordance with the provisions of 24 CFR Part 115, with particular reference to §§ 115.2(a), 115.3 and 115.8. In the notice of proposed rulemaking of April 16, 1981, those sections were set forth to provide appropriate information to all parties with an interest in HUD's proposed action.

All interested persons and organizations were invited to submit written comments on or before May 18, 1981. Only one comment was received. With respect to the City of Detroit, Michigan, originally proposed for recognition, the Department received a comment that the Detroit Omnibus Human Rights Ordinance had been declared unconstitutional by the Wayne County Circuit Court on December 22, 1980. The Department's Office of General Counsel reviewed the decision of the Circuit Court and based on that decision rescinded the December 15, 1980 legal analysis which concluded that the Detroit fair housing law provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to those provided in Title VIII. Accordingly, we have not included this jurisdiction in the final rule. No comments were received with respect to the two States and eight of the localities which are, therefore, listed in this final rule.

States	
Illinois	Washington

Localities	
Clearwater, Fla.	New York City, N.Y.
Kansas City, Kans.	Orlando, Fla.
Lincoln, Nebr.	Pittsburgh, Pa.
Minneapolis, Minn.	Raleigh, N.C.

In order to permit these States and localities to have an opportunity to participate in essential training for fiscal

year 1981, this rule must be effective at the earliest possible time. Therefore, it would be impracticable to delay the effective date of this rule for the 30-day period provided in 5 U.S.C. 553(d).

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

The Catalog of Federal Domestic Assistance Program titles and numbers are Equal Opportunity in Housing, 14.400 and Fair Housing Assistance Program, 14.401.

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this Rule does not have a significant economic impact on a substantial number of small entities.

PART 115—RECOGNITION OF SUBSTANTIALLY EQUIVALENT LAWS

Accordingly, 24 CFR 115.11 is revised to read as follows:

§ 115.11 Jurisdictions with substantially equivalent laws.

The following jurisdictions are recognized as providing rights and remedies for alleged discriminatory housing practices substantially equivalent to those in the Act, and complaints will be referred to the appropriate State or local agency as provided in § 115.6.

States

Alaska	Nebraska
California	Nevada
Colorado	New Hampshire
Connecticut	New Jersey
Delaware	New Mexico
Illinois	New York
Indiana	Oregon
Iowa	Pennsylvania
Kansas	Rhode Island
Kentucky	South Dakota
Maine	Virginia
Maryland	Washington
Massachusetts	West Virginia
Michigan	Wisconsin
Minnesota	

Localities

Charleston, W.V.	New York City, N.Y.
Charlotte, N.C.	Omaha, Nebr.
Clearwater, Fla.	Orlando, Fla.
District of Columbia	Philadelphia, Pa.
Fort Wayne, Ind.	Phoenix, Ariz.
Kansas City, Kans.	Pittsburgh, Pa.
Lincoln, Nebr.	Raleigh, N.C.
Minneapolis, Minn.	Seattle, Wash.
Montgomery County, Md.	Sioux Falls, S. Dak.
	Tacoma, Wash.

(Sec. 810 (c) Civil Rights Act of 1968, (42 U.S.C. 3610); sec. 7(d) of the Department of HUD Act, (42 U.S.C. 3535(d)); sec. 7(o) of the Department of Housing and Urban Development Act, (42 U.S.C. 3535(o)); sec. 234 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., on August 11, 1981.

Antonio Monroig,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 81-27180 Filed 9-17-81; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 234

[Docket No. R-81-929]

Condominium Projects; Mutual Mortgage Insurance and Insured Home Improvement Loans

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

ACTION: Interim rule.

SUMMARY: This rule provides for HUD/FHA mortgage insurance of condominium units in projects that have been approved for loan guaranty by the Administrator of Veterans Affairs. The rule also eliminates the requirement that a conventionally financed project be committed to a plan of condominium ownership at least twelve months prior to the time individual units are eligible for HUD/FHA mortgage insurance, although it is still required that the construction of the project be completed for twelve months prior to eligibility. Finally, the rule eliminates the requirement that at least 90 percent of the units be sold and the title conveyed with respect to conventionally financed projects. These changes are needed to facilitate homeowner purchases of condominium properties.

DATES: Effective date: September 18, 1981.

COMMENTS DUE: Comments must be received on or before November 17, 1981.

ADDRESS: Written comments should refer to the docket number and date and should be submitted to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single-Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Housing and Community Development Act of 1980 was signed into law on October 8, 1980. Section 318 of the Housing and Community Development Act of 1980 authorizes the Department to insure, under Section 234(c) of the National Housing Act, individual unit mortgages in condominium projects which have been approved for guaranty or for a direct loan by the Veterans Administration. This authority is implemented by § 234.26(a)(4). Another change made by this interim rule concerns § 234.26(a)(3). Section 313(a) of the Housing and Community Development Amendments of 1978 (Pub. L. 95-557) amended Section 234(c) of the National Housing Act to authorize the Department to insure mortgages on individual condominium units in conventionally financed projects if construction of the project was completed more than twelve months prior to the application for mortgage insurance. When this authority was implemented by § 234.26(a)(3), a requirement was added that the project has been committed to a plan of condominium ownership at least twelve months prior to the application for mortgage insurance. In addition, it was required that 90 percent of the units in the project be sold and the title conveyed. This interim rule deletes these requirements.

The Secretary has determined that it is urgent that the benefits afforded by these amendments be made available as soon as possible. Publishing a notice of proposed rulemaking and given the public an opportunity for prior comment on these amendments would cause a substantial delay in making the benefits available. A delay could cause unnecessary hardships to homebuyers who need to use the changes to the regulations which the Act provides. Therefore, the Secretary finds that notice and prior public procedure on these regulations would be contrary to the public interest. Since these amendments relieve restrictions contained in present regulations, it is not necessary to delay the effective date of these provisions for the 30-day period provided in 5 U.S.C. 553(d). Comments received on the interim rule will be considered in the development of a final rule to be issued in this proceeding.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement Section 102(2)(c) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular hours in the Office of the Rules Docket Clerk at the address set forth above.

The following number identifies the program as listed in the Catalog of Federal Domestic Assistance, affected by this regulation change.

Section 234(c)=14.133 Mortgage Insurance—Purchase of Units in Condominiums (F)

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Accordingly, Chapter II of 24 CFR is amended as follows:

1. Section 234.26 is revised to read as follows:

§ 234.26

Project requirements.

No mortgage shall be eligible for insurance unless the following requirements are met:

(a) *Location of family unit.* The family unit shall be located in a project which the Commissioner determines to be acceptable, and which:

(1) Is or has been covered by a project mortgage insured under an FHA multi-family housing program; or

(2) Contains less than 12 units; or

(3) Contains 12 or more units and construction of the project was completed more than one year prior to the application for mortgage insurance. For purposes of this paragraph, the date on which construction was completed shall be the latest of the dates on which:

(i) All units have been substantially completed as evidenced by certificates of occupancy from a governmental entity or recorded certificates of completion executed by a registered or licensed architect or engineer; or

(ii) The declarant has completed all common elements and improvements which the declarant is obligated to complete by virtue of state condominium law or the condominium documents; or

(4) Has been approved by the Veterans Administration for its guaranty, insurance or direct loan programs.

(b) *Plan of condominium ownership.* The project shall have been committed to a plan of condominium ownership by a deed, or other recorded instrument, which is acceptable to the Commissioner.

(c) *Releases.* The family unit shall have been released from any mortgage covering the project or any part of the project.

(d) *Certificate by mortgagee.* The mortgagee shall certify that:

(1) The deed of the family unit and the deed or other recorded instrument committing the project to a plan of condominium ownership comply with all legal requirements of the jurisdiction.

(2) The mortgagor has good marketable title to the family unit subject only to the mortgage which is a valid first lien on the same.

(3) The family unit is assessed and subject to assessment for taxes pertaining only to that unit.

(e) *Conditions and provisions.* The Commissioner may require such conditions and provisions as he/she deems necessary for the protection of the consumer and public interest including, but not limited to, the execution of an agreement between the owners and the Commissioner which shall be made applicable to the Association and to any owner of a family unit.

(f) *Projects covered by an insured or Secretary-held mortgage.* Projects which are covered by an insured project mortgage, or mortgage held by the Secretary, must be in compliance with a conversion plan approved by the Commissioner. The conversion plan shall provide for:

(1) The termination by payment in full of the mortgage or by voluntary termination of the insurance contract covering any HUD/FHA-insured or Secretary-held mortgage on the project, unless the Commissioner determines that his/her interests and those of the individuals purchasing the family units are best served by not requiring the termination of the insurance or payment in full of the mortgage.

(2) On release of a family unit from the project mortgage, payment shall be made on the outstanding balance of the project mortgage in an amount equal to the share of the balance determined by HUD to be attributable to the family unit.

(3) The conveyance of family units, equal in value to at least 70 percent (or such lesser percentage as the Secretary may prescribe) of the total value of all units to owners approved by the FHA.

(4) The project mortgagee shall certify notwithstanding any provisions of the mortgage covering prepayment, that no charge is contemplated or has been collected for prepayment in full of the project mortgage.

(g) *Projects not covered by an insured or Secretary-held mortgage.* Projects which are not covered by an insured project or Secretary-held mortgage and which have not been approved by the Veterans Administration for its guaranty, insurance or direct loan programs shall meet the following additional requirements:

(1) Except with the approval of the Commissioner for the purpose of constructing or converting the project in phases or stages, any special right of the declarant (as declarant and not as a unit owner) to do any and all of the following has expired or has been waived in a recorded instrument:

(i) Add land or units to the condominium;

(ii) Convert common elements into additional units or limited common elements;

(iii) Withdraw land from the condominium;

(iv) Use easements through the common elements for the purpose of making improvements within the condominium or within any adjacent land; or

(v) Convert a unit into two or more units, common elements, or into two or more units and common elements.

(2) At least 70 percent (or such lesser percentage as the Commissioner may prescribe) of the family units shall be occupied by the owners or shall have been sold to owners who intend to occupy the units.

(Sec. 211 of the National Housing Act (12 U.S.C. 1709, 1715))

Issued at Washington, D.C., September 4, 1981.

Philip D. Winn,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 81-27179 Filed 9-17-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-91; Ref: Notice No. 353]

Fennville Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in southwestern Michigan to be known as "Fennville."

This viticultural area is located in Allegan and Van Buren Counties. The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of Fennville as a viticultural area and its subsequent use as an appellation of origin on wine labels and in wine advertisements will help consumers better identify the wines from this distinctive grape-growing area.

EFFECTIVE DATE: October 19, 1981.

FOR FURTHER INFORMATION CONTACT: Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37671, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR for the listing of approved viticultural areas.

Section 9.11, Title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

The Fenn Valley Winery of Fennville, Michigan, petitioned ATF to establish a viticultural area to be named "Fennville."

In response to this petition, ATF published a Notice of Proposed Rulemaking, No. 353, in the Federal Register on October 27, 1980 (45 FR 70910), proposing the establishment of the "Fennville" viticultural area.

Five comments were submitted in response to the notice. The comments were received from a State Senator, two State Representatives, a chairman of a county board of commissioners, and a representative of the State wine institute. All of the commenters supported the petition for the proposed viticultural designation.

Executive Order 12291

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

Regulatory Flexibility Act

This final rule relates to a notice of proposed rulemaking published prior to January 1, 1981 and, therefore, is not subject to the authority of the Regulatory Flexibility Act.

Public Hearing

A public hearing was held on this issue on February 3, 1981, in Douglas, Michigan, to gather evidence concerning the proposed area. The hearing included six scheduled speakers with an additional five persons giving testimony. The testimony given by these eleven persons and the information furnished with the petition is the criteria on which ATF bases this Treasury decision.

Historical and Current Evidence of the Name

The name of this area, Fennville, was well documented at the hearing as a fruit growing region within the State of Michigan. One of the witnesses testified that the area was initially named after his great-grandmother whose name was Fenn. This same individual stated that his great-grandfather operated a woodmill under the name "Fennmill." Another witness gave testimony that the current name "Fennville" came about as a mistake in printing of the schedule by a railroad company who refused to correct the mistake.

Witnesses also presented testimony that the area has a history dating back over 100 years for growing various fruits, including grapes for the production of wine. One witness stated that 100 years ago, his family grew grapes and sold them to wine merchants in Chicago. Another person verified that he personally knew of 27 different farms in the area that commercially grew grapes for either juice, jelly or wine. Currently, there are seven of these original 27 farms growing grapes commercially. Proprietors of two wineries, one located in the proposed area and one located 50 miles south, gave testimony as to the differences in character and taste of the same type of grapes grown in the two areas.

After evaluating the testimony presented and the written comments, ATF believes the historical and current evidence supports the name of the viticultural area as being a distinct grape-growing region.

Geographic Evidence

Testimony was given by representatives from the U.S. Department of Agriculture, Soil Conservation Service and Michigan State University's Cooperative Extension Service as to the geographical uniqueness of the proposed area. This testimony brought out the differences between the proposed area and the surrounding areas in regards to temperature, growing conditions, rainfall and soil. In addition, evidence was presented regarding the moderating effect of Lake Michigan on this area versus areas within a 30 mile radius. The Fennville area has average winter temperatures that are two degrees warmer and average summer temperatures two degrees cooler. Further, the proposed area averages only four days per year of above 90° Fahrenheit, while an area 30 miles northeast averages 15 such days. The lake effect of Lake Michigan has a moisture robbing effect which accounts for a decrease in rainfall from areas further inland. One witness testified that, individually, the geographical features which make the Fennville area unique can be found throughout Michigan or the country. However, it is the combination of these features (soil, soil drainage, moderating temperature, and growing season) which distinguishes Fennville from surrounding areas.

Based on this testimony and other general comparisons as to temperature and growing conditions of the Fennville area, ATF has determined that this area is distinguishable from the surrounding area.

Boundaries

The boundaries, as proposed, were established by the use of natural features on three sides and a longitudinal meridian on the fourth side.

Testimony was given which supported and verified that the proposed boundaries depict an area which is viticulturally distinctive from the surrounding area. The western boundary is the eastern shore of Lake Michigan. The north and south boundaries are the Kalamazoo River and the Middle Fork of the Black River, respectively. Testimony established the north and south boundaries as being boundaries of a glacial moraine and outwash plain which depicts the desirable soil characteristic for grape growing in this area. This glacial moraine and outwash

plain meet at the intersection of the northern and eastern boundaries. The eastern boundary is the 86° 5' west longitude meridian which separates the viticultural area from a 42,000 acre State game area. The proposed area comprises approximately 75,000 acres.

Based on this testimony and evidence submitted with the petition, ATF has determined that the proposed boundaries sufficiently delineate the viticultural area from the surrounding areas and, therefore, the boundaries are being adopted as proposed. Furthermore, while ATF believes that viticultural area boundaries based on man-made features are inappropriate, where man-made features, such as the eastern boundary, closely approximate natural features, or where they provide a demarcation line from grape-growing areas as opposed to areas unsuitable for grape-growing, it is acceptable to use man-made features in describing the boundaries.

Executive Order 12291

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

Miscellaneous

ATF is approving this area as being viticulturally distinct from surrounding areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only be substantiated by consumer acceptance of Fennville wines.

ATF believes that substantial viticultural knowledge exists indicating that differences in climate, soil, and other physical characteristics do affect growing conditions found within a particular region. Although distinction and growing conditions may be mitigated by viticultural practices, these distinctions may also create differences in the grape growing.

Disclosure

A copy of the hearing proceeding is available for inspection during business hours at the following two locations: ATF Reading Room 4405, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue, NW., Washington, DC; and at the ATF Area Supervisors Office, Federal Building, 231 West Lafayette Street, Detroit, Michigan.

Drafting Information

The principal author is Norman P Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel in other offices of the Bureau participated in the preparation of this document, both in matters of substance and style.

Authority and Issuance

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.33. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.33 Fennville.

Par. 2. Subpart C is amended by adding § 9.33. As amended, Subpart C reads as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.33 Fennville.

(a) *Name.* The name of the viticultural area described in this section is "Fennville."

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Fennville Viticultural Area are three U.S.G.S. maps. They are entitled:

(1) "Fennville Quadrangle, Michigan-Allegan County," 15 minute series;

(2) "Bangor Quadrangle, Michigan," 15 minute series; and

(3) "South Haven Quadrangle, Michigan," 15 minute series.

(c) *Boundaries.* The Fennville viticultural area is primarily located in the southwestern portion of Allegan County, Michigan, with a small finger extending into the northwest corner of Van Buren County, Michigan.

(1) The western boundary is the eastern shore of Lake Michigan, extending from the Black River, at the City of South Haven, north to the Kalamazoo River.

(2) The northern boundary is the Kalamazoo River, extending easterly from Lake Michigan to 86°5' west longitude.

(3) The eastern boundary is the 86°5' west longitude meridian, extending from the Kalamazoo River to the intersection of the Middle Fork of the Black River.

(4) The southern boundary is the Middle Fork of the Black River extending westerly from 86°5' west longitude until it joins the Black River, continuing west along the Black River to the eastern shore of Lake Michigan.

Signed: August 3, 1981.

G. R. Dickerson,

Director.

Approved: August 31, 1981.

John P. Simpson,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 81-27137 Filed 9-17-81; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Certification of Completion of Developmental Steps for Arizona State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: Arizona on or before November 1, 1977, submitted documentation attesting to the completion of all structural, developmental aspects of its approved State occupational safety and health plan. After extensive review and opportunity for State correction, all developmental plan supplements have now been approved. This notice certifies this completion and the beginning of the 18(e) evaluation phase of State plan development. This certification attests only to the fact that Arizona now has in place those structural components necessary for an effective program. It does not render judgment, either positively or negatively, on the adequacy of the State's actual performance. In addition, although State plan commitments on staffing and resources have been met, these initial commitments may not be interpreted as meeting the ultimate requirements of the Occupational Safety and Health Act of 1970 for "sufficient staff" as redefined by the U.S. Court of Appeals decision in

"AFL–CIO v. Marshall", 570 F. 2d 1030 (1978).

EFFECTIVE DATE: September 18, 1981.

FOR FURTHER INFORMATION CONTACT: Marjorie N. Sauber, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room N–3613, Washington, D.C. 20210 (202) 523–6021.

SUPPLEMENTARY INFORMATION:

Background

Section 18 of the Occupational and Health Act of 1970 (the "Act") (29 U.S.C. 667) provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards shall submit for Federal approval a State plan for such development and enforcement. Part 1902 of Title 29, Code of Federal Regulations, sets forth procedures under which the Assistant Secretary of Labor for Occupational Safety and Health ("Assistant Secretary") shall approve such plans. Under the Act and regulations, plan approval is essentially a two-step procedure. A State must first submit its plan for an initial determination under section 18(b) of the Act. If the Assistant Secretary, after reviewing the State's submission, determines that the plan satisfies or will satisfy the criteria set forth in section 18(c) of the Act, a decision of "initial approval" is issued and the State may begin enforcement of its safety and health standards in accordance with the plan and with concurrent enforcement by the Occupational Safety and Health Administration (OSHA).

A State plan may receive initial approval even though at the time of submission not all essential components of the plan are in place. As provided at 29 CFR 1902.2(b), the Assistant Secretary may initially approve the submission as a "developmental plan," and a schedule within which the State must complete specified "developmental steps" is issued as part of the initial approval decision.

When the Assistant Secretary finds that the State has completed all developmental steps specified in the initial approval decision, a notice of such completion is published in the Federal Register (see 29 CFR 1902.34 and .35). Certification of completion of developmental steps initiates a thorough evaluation of the State plan by the Assistant Secretary to determine, on the basis of actual operations, whether the plan adequately protects safety and health of the State's workers. Certification does not render judgment as to the adequacy of State performance.

Final approval of the plan under section 18(e) of the Act and 29 CFR Part 1902 may not be granted until at least three years after initial approval and until at least one year after completion of developmental steps. Thereafter, when the Assistant Secretary determines on the basis of actual performance under the plan that the Act's criteria are being applied, a decision of final approval may be granted.

On November 5, 1974, a notice was published in the Federal Register (39 FR 39037) of initial approval of the developmental Arizona plan and the adoption of subpart CC of Part 1952 containing the decision, a description of the plan and the developmental schedule. During the three-year period ending November 1, 1977, following commencement of State operations (3 years from the date of the State's first 23(g) grant award), Donald Wiseman, former Director of the Arizona Division of Occupational Safety and Health, Industrial Commission of Arizona, submitted documentation attesting to the completion of each State developmental commitment for review and approval, as provided in 29 CFR Part 1953. Following Departmental review, opportunity for public comment, and subsequent modification of the State's submissions, as deemed appropriate, the Assistant Secretary has approved the completion of all individual Arizona developmental steps.

Completion of Developmental Steps

1. All developmental steps specified in the November 5, 1974 notice of initial approval have been completed as follows:

(a) Legislative amendments required to bring the Arizona occupational safety and health law (Arizona Revised Statutes, Chapter 23) into conformity with Federal requirements were enacted effective August 27, 1977 and were approved by the Assistant Secretary on April 3, 1981 (46 FR 20163).

(b) Occupational safety and health standards have been promulgated and subsequently amended to reflect changes in the Federal standards and were found to be at least as effective as the corresponding Federal standards and were approved by the Regional Administrator for Occupational Safety and Health on May 7, 1976 (41 FR 32917, August 6, 1976) and March 27, 1978 (43 FR 17066, April 21, 1978). The adoption of initial standards was approved as a completed developmental step on December 17, 1976 (41 FR 56315, December 28, 1976). In addition, State standards comparable to Federal standards through March 1981 have been adopted.

(c) Regulations concerning inspections, citations, and proposed penalties and Review Board Rules of Procedure were submitted on May 14, 1975, and were approved by the Assistant Secretary on July 22, 1976 (41 FR 31812, July 30, 1976).

(d) Regulations concerning recording and reporting of occupational injuries and illnesses were submitted on May 14, 1975 and were approved by the Assistant Secretary on July 22, 1976 (41 FR 31812, July 30, 1976).

(e) Regulations concerning variances were submitted on October 31, 1977, and were approved by the Assistant Secretary on November 13, 1980 (45 FR 77000, November 21, 1980).

(f) Regulations concerning complaints of discrimination against employees for exercising their rights under the law were submitted on October 31, 1977, and were approved by the Assistant Secretary on November 13, 1980 (45 FR 77000, November 21, 1980).

(g) The State's original Field Operations Manual was approved with the State plan. On March 1, 1978, the State submitted revisions to the manual to reflect changes in the Federal Manual and in the Arizona program. These revisions were approved by the Assistant Secretary on November 13, 1980 (45 FR 77000, November 21, 1980).

(h) The State poster notifying public and private employers and employees of their protections and obligations under the Arizona plan was submitted on May 14, 1975 and approved by the Assistant Secretary on July 22, 1976 (41 FR 31812, July 30, 1976).

(i) The universe file for the State's inspection scheduling system was completed and implemented on March 12, 1976, thus completing the implementation of the State's Management Information System, and was approved by the Assistant Secretary on July 22, 1976 (41 FR 31812, July 30, 1976).

(j) Interagency agreements with the Arizona Department of Health Services and the Corporation Commission of Arizona were entered into on November 7, 1974, March 20, 1975 and May 7, 1976, and were approved by the Assistant Secretary on July 22, 1976 (41 FR 31812, July 30, 1976). An agreement with the Arizona Atomic Energy Commission was entered into on December 18, 1972, and was approved with the State plan on October 29, 1974 (39 FR 39037, November 5, 1974).

2. The personnel operations of the Arizona Industrial Commission have

been found to be in substantial conformity with the Standards for a Merit System of Personnel Administration by the U.S. Office of Personnel Mamagement. The State also has an affirmative action plan which has been found acceptable by the Office of Personnel Management.

3. This certification covers all occupational safety and health issues covered under the Federal program except for the longshoring and maritime standards found in 29 CFR Parts 1915, 1916, 1917 and 1918 (longshoring, ship repairing, shipbuilding and shipbreaking), which are excluded from coverage under the plan. In addition, in accordance with State law, Arizona is precluded from enforcing occupational safety and health standards on Indian reservations and in mining operations. This certification also covers the State's program covering State and local government employees.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the approved 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 N-3613, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 11321, Federal Office Building, 450 Golden Gate Avenue, San Francisco, California 94102; and Division of Occupational Safety and Health, Industrial Commission of Arizona, 1601 West Jefferson St., Phoenix, Arizona 85007.

Effect of Certification

The Arizona plan is certified effective September 18, 1981 as having completed all developmental steps on or before November 1, 1977 This certification attests to structural completion, but does not render judgment on adequacy of performance.

The Arizona occupational health and safety program will be monitored and evaluated for a period of not less than one year after publication of this certification to determine whether the State program in operation provides for an effective program of enforcement including the requirement set out in "AFL-CIO v. Marshall" cited above. The Assistant Secretary will then determine whether Federal authority should be withdrawn with respect to issues covered by the plan pursuant to Section 18(e) of the Act.

Level of Federal Enforcement

In accordance with 29 CFR 1902.35, Federal enforcement authority under sections 5(a)(2), 8, 9, 10, 13 and 17 of the Act (29 U.S.C. 654(a)(2), 657, 658, 659, 662 and 666) and Federal standards authority under section 6 of the Act (29 U.S.C. 655) will not be relinquished during this evaluation period. However, exercise of Federal enforcement authority will continue generally to be limited at this time to enforcement in those issues not covered by the State plan, response to 11(c) discrimination complaints as appropriate, enforcement of new Federal standards if necessary and responses to emergency or unusual situations. The level of Federal enforcement may from time to time be reconsidered.

In accordance with this certification, 29 CFR 1952.354 is hereby amended to reflect successful completion of the developmental period by changing the title of the section and by adding a paragraph (i) as follows:

§ 1952.354 Completion of developmental steps and certification.

* * * * *

(i) In accordance with § 1902.34 of this chapter, the Arizona occupational safety and health plan was certified, effective September 18, 1981 as having completed all developmental steps specified in the plan as approved on October 29, 1974, on or before November 1, 1977 This certification attests to structural completion, but does not render judgment on adequacy of performance.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 14th day of September 1981.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 81-27220 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Navigation; COLREGS Compliance Exemption; U.S.S. La Jolla

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) has determined that U.S.S. *La Jolla* (SSN 701) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine; and (2) has found that U.S.S. *La Jolla* (SSN 701) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS, Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 10, 1981.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, Virginia 22332, Telephone Number (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that U.S.S. *La Jolla* (SSN 701) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21 (c) regarding the arc of visibility of the stern light; Rule 23(a)(iv) requiring the stern light to be displayed when the vessel is underway at night; Annex I, section 2(a)(i) regarding the height of the masthead light; Annex I, section 2(k) regarding the height and relative positions of the anchor lights; and Annex I, section 3(b) regarding the location of the side lights. Full compliance with the aforementioned 72 COLREGS provisions would interfere with the special function of the ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that U.S.S. *La Jolla* (SSN 701) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3 are equally applicable to U.S.S. *La Jolla* (SSN 701). Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different

from that prescribed herein will adversely affect the ship's ability to perform its military function.

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Accordingly, 32 CFR Part 706, is amended as follows:

§ 706.2 [Amended]

1. The third Table One of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by inserting the following entry after the entry for U.S.S. *Dallas* (SSN 700):

Vessel	Number	Distance in meters of forward masthead light below minimum required height, § 2(a)(i) Annex I
U.S.S. *La Jolla*	SSN 701	3.5

2. Table Three of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by inserting the following entry after the entry for U.S.S. *Dallas* (SSN 700)

Vessel	Number	Masthead light, arc of visibility; Rule 21(a)	Sidelights, arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Sidelights, distance inboard of ship's sides in meters; § 3 (b), Annex I	Stern light, distance forward of stern in meters; Rule 21(c)	Forward Anchor light, height above hull in meters; § 2(k), Annex I	Anchor lights, relationship of aft light to forward light in meters; § 2(k), Annex I
USS LA JOLLA	SSN 701	• • •	• • •	• • •	4.2	6.1	3.5	1.7 below

The effective date of this amendment will be July 10, 1981.

(Executive Order 11964; 33 U.S.C. 1605)

Approved: July 10, 1981.

John Lehman,

Secretary of the Navy.

[FR Doc. 81-27138 Filed 9-17-81; 8:45 am]

BILLING CODE 3810-AE-M

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32 CFR Part 706

Navigation; COLREGS Compliance Exemption; USNS APACHE

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) has determined that USNS APACHE (T-ATF 172) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with Annex I, section 2(f) of the 72 COLREGS without interfering with its special function as a Naval fleet tug, and (2) has found that USNS APACHE (T-ATF 172) is a member of the T-ATF 166 Class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rules 38(a), 38(b), and 38(d)(i). The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: July 22, 1981.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Division, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, Virginia 22332, Telephone No. (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USNS APACHE (T-ATF 172) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS Annex I, section 2(f), in that, during those situations when the USNS APACHE must simultaneously display masthead lights used for towing as required by Rule 24 and the task lights of a vessel restricted in its ability to maneuver as required by Rule 27, the masthead lights used for towing will not be located above and clear of the task lights. Full compliance with this provision would interfere with the special function of the ship. The Secretary of the Navy has also certified that the aforementioned masthead lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that the Secretary of the Navy has previously authorized the use by T-ATF 166 Class of vessels of certain exemptions permitted by 72 COLREGS Rule 38. Specifically, the use of the exemptions has been authorized as allowed in Rule 38(a), pertaining to lights with ranges and intensities prescribed in Rule 22; Rule 38(b), pertaining to lights with color specifications prescribed in Annex I, section 7; and, Rule 38(d)(i), pertaining to the repositioning of masthead lights on vessels less than 150 meters in length required by Annex I, Section 3(a).

The Secretary of the Navy has determined that USNS APACHE is a member of the T-ATF 166 Class, is in compliance with the 1960 Rules of the Road, and the keel of the T-ATF 166 Class lead ship was laid prior to July 15, 1977.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to the public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table Four of § 706.2 is amended by adding the following note numbered 18 which reflects the certifications issued by the Secretary of the Navy:

* * * * *

18. On USNS APACHE (T-ATF 172), the masthead lights used for towing required by Rule 24 will be displaced approximately 4.1 meters below the lowest of the lights required to be displaced by Rule 27 when a vessel is not under command or is restricted in its ability to maneuver.

* * * * *

(Executive Order No. 11964; 33 U.S.C. 1605)

Dated: July 22, 1981.

Robert J. Murray,

Acting Secretary of the Navy.

[FR Doc. 81-27139 Filed 9-17-81; 8:45 am]

BILLING CODE 3810-AE-M

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32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications under the International Regulations for Preventing Collisions at Sea, 1972, (72 COLREGS) to reflect that the Secretary of the Navy has determined that USS KIDD (DDG 993) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a guided missile destroyer. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: June 26, 1981.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, Virginia 22332, Telephone Number (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS KIDD (DDG 993) is a vessel of the Navy which, due to its special construction and purpose cannot comply fully with 72 COLREGS, Annex I, section 2(f) pertaining to the placement of masthead lights over all other lights and obstructions; 72 COLREGS, Annex I, section 3 (a) pertaining to the placement of the forward masthead lights in the forward quarter of the ship; 72 COLREGS, Annex I, section 3(a) pertaining to the placement of the after masthead light; and 72 COLREGS, Rule 23(a)(ii) regarding the arc of visibility of the after masthead light, without interfering with its special function as a naval ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements. Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to the public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function. Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following naval ship to the list of vessels therein, immediately following the U.S.S. Belknap, to indicate the certifications issued by the Secretary of the Navy:

* * * * * * *

Table 5

	Forward masthead light not required; height above hull. Annex I Section 2(a)(ii) (c), (d)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, Section 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, Section 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, Section 2(a)(i)	Aft masthead lights not visible over foward light 1000 meters ahead of ship in all normal degrees of trim. Annex I, Section 2(b)	Forward masthead light not in forward quarter of ship. Annex I, Section 3(a)	After masthead light not less than 1/2 ship's length aft of forward masthead light. Annex I, Section 3(a)	Percentage horizontal separation attained
Vessel Number								
USS KIDD DDG 993			X			X	X	44.6

2. Table Four paragraph 7, of § 706.2 is amended by adding to the list of vessels therein certifications issued by the Secretary of the Navy:

7. The arc of visibility of the after masthead light required by Rule 23(a)(ii) and Annex I, section 2(f) may be obstructed from right ahead on certain naval ships as follows:

* * * * *

USS KIDD (DDG 993).....0°28.8'

3. Table Four of § 706.2 is amended by adding the following new paragraph 17 to indicate the certifications issued by the Secretary of the Navy:

17. On the following ships the arc of visibility of the after masthead light required by Rule 23(a)(ii) may be obstructed through 0°48.6' arc of visibility at the point 349° relative to the ship's head: USS KIDD (DDG 993)

(Executive Order No. 11964; 33 U.S.C. 1605)

Dated: June 26, 1981.

John Lehman,

Secretary of the Navy.

[FR Doc. 81-27181 Filed 9-17-81; 8:45 am]

BILLING CODE 3810-AE-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-4-FRL 1928-1]

Kentucky: Redesignation of Ozone and Sulfur Dioxide Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On February 12, 1981 (46 FR 12023), EPA proposed to redesignate the cities of Owensboro and Henderson, Kentucky from nonattainment to attainment for the sulfur dioxide. standards. Therein EPA also proposed to redesignate Henderson County, Kentucky from nonattainment to attainment for the ozone standard. Kentucky submitted air quality data showing attainment of the SO_2 standards in Henderson for calendar years 1977 through 1978 and in Owensboro from 1975 through 1979; also included was air quality data showing attainment of the ozone standard in Henderson County from 1977 through 1980. EPA today designates the Kentucky cities of Henderson and Owensboro attainment for the sulfur dioxide standards, and Henderson County attainment for the ozone standard.

EFFECTIVE DATE: This action is effective October 19, 1981.

ADDRESSES: Copies of the materials submitted by Kentucky in support of the redesignation requests may be examined at the following locations during normal business hours:

EPA Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Division of Air Pollution Control, Kentucky Department for Natural Resources and Environmental Protection, West Frankfort Office Complex, U.S. 127 South, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: Melvin Russell of EPA Region IV's Air Programs Branch in Atlanta (see "Addresses" above). Telephone 404-881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962 at 8997), the Administrator, pursuant to Section 107 of the Clean Air Act as amended in 1977 and on the basis of information supplied by the Commonwealth of Kentucky, designated the City of Henderson and the City of Owensboro nonattainment for sulfur dioxide and Henderson County nonattainment for ozone.

On August 8, 1979 and May 5, 1980, the Kentucky Department for Natural Resources and Environmental Protection submitted air quality data showing that the national ambient air quality standards for sulfur dioxide had not been violated in Henderson in 1977 and 1978 nor in Owensboro from 1975 through 1979 and requested that these areas be redesignated to attainment.

On October 31, 1979 and July 7, 1980, the Department submitted a summary of ozone data gathered in the Henderson County nonattainment area during the period October 1977-September 1979, and requested the area be redesignated attainment. Additional data for 1980 was supplied on July 15, 1980. EPA has reviewed the sulfur dioxide and ozone data for representativeness, quality, quantity, etc., and found them to be acceptable. Additional discussion of the material submitted by Kentucky can be found in EPA's February 12, 1981, proposal notice (46 FR 12023). No comments were received in response to that notice.

Action

EPA today designates the Kentucky Cities of Henderson and Owensboro attainment for the sulfur dioxide standards, and Henderson County attainment for the ozone standard.

These actions are effective October 19, 1981.

Section 107(d)(1) of the Clean Air Act does not provide for EPA to make a formal distinction between unclassifiable and attainment in the case of an area's attainment status for ozone. Therefore, the designation of Henderson County as shown in the Code of Federal Regulations (40 CFR 81.318) will be considered to be part of the "Rest of State" area, shown as unclassified or better than national standard for ozone.

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

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic impact on substantial number of small entities. This action only recognizes a change in air quality levels. It imposes no requirements on sources.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore, subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not result in additional costs to industry or consumers. Moreover these redesignations only reflect attainment of the ambient air standard for sulfur dioxide and ozone, and make no additional demands on any industry or government entity.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

(Sec. 107, Clean Air Act (42 U.S.C. 4707))

Dated: September 11, 1981.

John W. Hernandez,

Acting Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40, Code of Federal Regulations is Amended as follows:

Subpart C—Section 107 Attainment Status Designations

§81.318 [Amended]

In §81.318, the "Kentucky-SO_2" table is revised by removing the entries titled "That portion of Daviess County in Owensboro" and "that portion of Henderson County in Henderson;" the "Kentucky-O_x" table in this section is revised by changing its title to "Kentucky-O_3" and by removing the entry titled "Henderson County."

[FR Doc. 81-27227 Filed 9-17-81; 8:45 am]

BILLING CODE 6560-38-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-45

[FPMR Amdt. H-129]

Sale of Personal Property

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation amends FPMR Part 101-45 by permitting agencies, upon the approval of GSA, to sell personal property where the estimated proceeds from a sale exceed $250. It also deletes the requirement for agencies to obtain from GSA the names of private auctioneering firms qualified to conduct Government sales of personal property. Selling agencies will now obtain private auctioneering services in accordance with agency regulations for procuring services.

EFFECTIVE DATE: September 18, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Milton Herman, Chief, Sales Management Branch, Sales Division (703-557-0681).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

PART 101-45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

1. The table of contents for Part 101-45 is amended by reserving one entry as follows:

* * * * *

§ 101-45.312 [Reserved]

* * * * *

Subpart 101-45.1—General

2. Section 101-45.105-3 is amended by adding new paragraph (c) to read as follows:

§ 101-45.105-3 Exemptions.

* * * * *

(c) A holding agency may sell personal property, upon the approval of GSA, where the estimated proceeds from a sale exceed $250.

Subpart 101-45.3—Sale of Personal Property

§ 101-45.312 [Reserved]

3. The text of Section 101-45.312 is removed and the section is reserved.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: August 31, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-27217 Filed 9-17-81; 8:45 am]

BILLING CODE 6820-96-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-250; RM-3709]

Radio Broadcast Services; FM Broadcast Station in Milan, Georgia Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 285A to Milan, Georgia, in response to a petition filed by George S. Walker, III. The proposed station would provide a first local aural broadcast service to Milan.

DATE: Effective November 16, 1981.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Milan, Georgia), BC Docket No. 81-250; RM-3709, Report and Order (Proceeding Terminated).

Adopted: September 3, 1981.

Released: September 17, 1981.

By the Acting Chief, Policy and Rules Division.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 46 FR 23497, published April 27, 1981, proposing the assignment of Channel 285A to Milan, Georgia, as that community's first FM assignment, in response to a petition filed by George S. Walker, III ("petitioner"). Supporting comments were filed by the petitioner. No oppositions to the proposal were received.

2. Milan (pop. 1,115) [1] is located on the border between Telfair (pop. 11,445) and Dodge (pop. 16,955) Counties, approximately 232 kilometers (145 miles) southeast of Atlanta, Georgia. It has no local aural broadcast service.

3. In his comments, petitioner incorporated by reference the information contained in the *Notice* which demonstrated the need for a first FM assignment to Milan, and restated his intent to apply for the channel, if assigned. Additionally, the petitioner notes that the site restriction proposed in the *Notice* will not be a hindrance in selecting a site for the proposed station.

[1] Population figures are taken from the 1980 U.S. Census.

4. We believe that the petitioner has adequately demonstrated the need for a first FM assignment to Milan, and that the public interest would be served by assigning Channel 285A to that community. The transmitter site is restricted to 2 kilometers (1.2 miles) south of the city to avoid short spacing to Station WDEN (Channel 287), Macon, Georgia.

5. In view of the foregoing and pursuant to the authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules, it is ordered, That effective November 16, 1981, the FM Table of Assignments, § 73.202(b) of the Commission's Rules is amended with regard to Milan, Georgia, as follows:

City	Channel No.
Milan, Georgia	285A.

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-27273 Filed 9-17-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-246; RM-3614]

FM Broadcast Station in Hertford, North Carolina; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In a *Report and Order* adopted April 10, 1981, the Commission assigned FM Channel 285A to Hertford, North Carolina, with a site restriction of 1.6 kilometers (1 mile) east. Musicradio of North Carolina, Inc. requested reconsideration of that action and asked that the site restriction be amended to include a restriction of 2 miles north. The petition for reconsideration is granted; the assignment of Channel 285A to Hertford now has a site restriction of 3.5 kilometers (2.2 miles) northeast. This action will decrease the site restriction on the proposed

assignment of Channel 284 to Havelock, North Carolina.

DATE: Effective November 16, 1981.

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

FOR FURTHER INFORMATION CONTACT: Michael McGregor, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Hertford, North Carolina), BC Docket No. 80-246, RM-3614.

Memorandum Opinion and Order—Proceeding Terminated

Adopted: September 3, 1981.

Released: September 17, 1981.

By the Acting Chief, Policy and Rules Division:

1. A petition for reconsideration of the Commission's *Report and Order*, 46 FR 23928, published April 29, 1981, assigning Channel 285A to Hertford, North Carolina, has been filed by Musicradio of North Carolina, Inc. ("Musicradio").[1] Musicradio seeks an addition to the site restriction placed on the Hertford assignment to include a restriction of 2 miles north. Musicradio, the petitioner in RM-3731, which seeks the substitution of Channel 284 for Channel 285A at Havelock, North Carolina, states that without this further site restriction on the Hertford assignment, it will be unable to locate a suitable transmitter site for the requested Channel 284 at Havelock. No response to the petition for reconsideration was received.

2. It appears that both the Hertford and the potential Havelock assignment can be accommodated in this instance since the additional site restriction should not place an undue burden on locating a suitable site for the Hertford assignment. Perquimanns County Broadcasters, the petitioner for the Hertford assignment, was served with a copy of the petition for reconsideration and has not responded. We must, therefore, assume that Perquimanns has no objection to the additional site restriction. In the absence of any objection from the Hertford petitioner, we shall grant Musicradio's petition and place an additional site retriction on the Hertford assignment.

3. Accordingly, it is ordered, that the petition for reconsideration filed by Musicradio of North Carolina, Inc., is granted.

4. It is further ordered, that effective November 16, 1981, the site restriction on the use of Channel 285A at Hertford, North Carolina, is amended to require a site location at least 3.5 kilometers (2.2 miles) northeast.

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

6. Authority for adoption of the above amendment is contained in §§ 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7 For further information concerning the above, contact Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1080, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-27271 Filed 9-17-81; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on June 4, 1981, Report No. 1289.

47 CFR Part 73

[BC Docket No. 80-329; RM-3447 and RM-3553]

Radio Broadcast Services; FM Broadcast Stations West Tulsa, Sand Springs, and Pawhuska, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 272A to Sand Springs, Oklahoma, as that community's first FM assignment and substitutes Channel 285A for Channel 272A at Pawhuska, Oklahoma, at the request of Music Sound Radio, Inc. A mutually exclusive request for the assignment of Channel 272A to West Tulsa, Oklahoma, is denied because West Tulsa is not considered a "community" for FM assignment purposes.

DATE: Effective November 16, 1981.

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

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (West Tulsa, Sand Springs, and Pawhuska, Oklahoma), BC Docket No. 80-329; RM-3447, RM-3553; Report and Order (Proceeding Terminated).

Adopted: September 3, 1981.

Released: September 15, 1981.

By the Acting Chief, Policy and Rules Division.

1. Before the Commission is a *Notice of Proposed Rule Making*, 45 FR 46454, published July 10, 1980, proposing the assignment of FM Channel 272A to either West Tulsa, Oklahoma, or to Sand Springs, Oklahoma, and the substitution of Channel 285A for unused Channel 272A at Pawhuska, Oklahoma. Because of mileage separation requirements, Channel 272A cannot be assigned to both West Tulsa and Sand Springs. Comments were filed by Westside Communications, Inc. ("Westside"), the proponent of the assignment to West Tulsa, and by Music Sound Radio, Inc. ("MSR"), the proponent of the assignment to Sand Springs. Both parties filed reply comments. Late-filed comments were submitted by Advance Communications Corporation ("Advance"), Communications Marketing Consultants ("CMC"), licensee of Station KMYZ(FM), Pryor, Oklahoma, and by B.D.E. Inc. ("BDE").[1]

2. In the *Notice*, Westside was requested to present more information on whether West Tulsa was in fact a community for FM assignment purposes. We noted that West Tulsa appeared to be simply an urban neighborhood in the City of Tulsa instead of an independent municipal entity. In response, Westside states that West Tulsa has a unique population of over 35,000 people and includes the former corporate city of Red Fork. Westside also contends that West Tulsa includes the present corporate City of Jenks, Oklahoma. According to Westside, Jenks has a 1980 population of approximately 5,500 people. Westside asserts that the community it intends to serve consists ". . . not only of the city of Jenks, but also, West Tulsa, whose residents are primarily working class and who have little or nothing in common with the rest of Tulsa." Westside concludes that Jenks and West Tulsa deserve the assignment over Sand Springs because Sand Springs is already served by an AM radio station. If Channel 272A is assigned to West Tulsa, Westside states that it will promptly apply for authority to build and operate a station there.

[1] The comments filed by Communications Marketing Consultants and BDE were submitted almost 10 months after the closing of the pleading cycle. Absent some overwhelming public interest justification, we do not normally accept comments filed at such a late date. As explained at paragraphs 7 and 8 below, we do not find any such public interest justification in the present case; thus, we have not considered the comments of CMC and BDE.

3. In support of the assignment to Sand Springs, MSR incorporates the information submitted in its original petition and reiterates its intention to apply for the channel if assigned to Sand Springs. In response to a question in the *Notice* concerning preclusion to the cities of Neodesha and Sedan, Kansas, MSR states that Channels 265A and 240A can be assigned to the communities, respectively. MSR further cites various cases which allegedly support its view that West Tulsa cannot be considered a community for FM assignment purposes. MSR opines that even Westside seems unsure of "* * * just what is 'West Tulsa,' sometimes referring to it as 'West Tulsa-Jenks' or variously 'The West Tulsa Area and the City of Jenks, Oklahoma.'" Even assuming West Tulsa is an identifiable community, MSR avers that given the site restrictions placed on the use of Channel 272A, a station would not be able to place a 70 dBu signal over the entire principal community. MSR concludes that Westside is essentially requesting a seventh commercial FM assignment to Tulsa, which, MSR avers, cannot prevail over the first assignment to Sand Springs.

4. In reply comments, Westside states that Sand Springs is a "bedroom community" of Tulsa and that a station in Sand Springs could not serve West Tulsa and Jenks with an adequate signal. Westside also restates its contention that West Tulsa is, in effect, a separate community "* * * physically and geographically separated from Tulsa by the Arkansas river." Finally, Westside again states that Jenks is a separate, incorporated community. MSR states in its reply comments that Westside's discussion of Jenks amounts to a counterproposal which the Commission cannot consider because the comments of Westside were submitted several days after the filing deadline.[2] MSR asserts that the decision must then be made between Sand Springs and West Tulsa, as proposed in the *Notice*. Because West Tulsa has not been shown to be a community for the purposes of FM assignment policy, MSR avers that the channel should be assigned to Sand Springs. MSR does admit that Sand Springs has a Class IV AM station, but submits that this should not foreclose the assignment.[3]

5. West Tulsa (not listed in the 1970 U.S. Census) is located in Tulsa County (pop. 401,663),[4] and is divided from the rest of the City of Tulsa by the Arkansas River. No AM or FM station is presently assigned to West Tulsa, although Tulsa is served by five fulltime AM stations, one daytime-only AM station and six FM stations. Sand Springs (pop. 11,519), also in Tulsa County, is located a few miles west of Tulsa. Sand Springs currently is served locally by one fulltime AM station.

6. We stated in the *Notice* that we were unconvinced that West Tulsa was a community as that term is defined for purposes of FM assignments. Westside was invited to comment on this issue in order to provide the Commission with indicia of West Tulsa's status as an independent community. In response, Westside has presented no additional information about West Tulsa, but has submitted data concerning the characteristics of Jenks. Apparently, Westside is seeking to justify an assignment to West Tulsa by "incorporating" the City of Jenks into its proposal. However, we do not believe that transferring community characteristics from one entity to another is an appropriate method of proving the status of the questionable community. With regard to West Tulsa itself, Westside has offered no evidence to suggest that West Tulsa is in any way divisible from the City of Tulsa except that it lies on the west side of the Arkansas River. Without other evidence "* * * which demonstrates that the [local] businesses, organizations or services meet the needs of a recognizable group with common interests",[5] we will not make an FM assignment to West Tulsa.

7. Having decided that West Tulsa is not a community for assignment purposes, the remaining issue concerns whether to assign an FM channel to Sand Springs. Both CMC and BDE offer comments opposing the assignment of a first FM channel to Sand Springs. However, as indicated earlier, both parties filed their comments some ten months after the filing deadline in this proceeding had passed. When submission of comments so clearly falls outside the comment periods, we normally will not accept them unless they contain some new information which was not available earlier and the new information assists in the resolution of the issues under consideration. In this instance, CMC states that it wishes to relocate the transmitter of Station WMYZ, Pryor, Oklahoma, to an area five miles east of Pryor. CMC states that this relocation conflicts with the proposed channel substitution at Pawhuska. Initially we note that no application to relocate the transmitter has been filed with the Commission. More importantly, the Commission has consistently held in the assignment context that an existing licensee's transmitter site preference will not operate to deny a first FM assignment to an otherwise deserving community. *Lockhart, Texas*, 81 F.C.C. 2d 171 (1980); *Freeport, Texas*, 47 R.R. 2d 135 (Broadcast Bur. 1980). Thus, the CMC pleading provides no new information conducive to the successful resolution of this proceeding, and it is therefore dismissed as untimely.

8. BDE states in its comments that the assignment to Sand Springs should be denied in favor of an assignment to Cleveland, Oklahoma. In effect, BDE is offering a counterproposal to the proposals made in the *Notice*. In support of accepting its late-filed counterproposal, BDE states that it only recently became aware of the proceeding because the *Notice* failed to mention that the proposed assignments would have a preclusive effect on the community of Cleveland. BDE argues that because it did not receive adequate notice of the preclusion impact, it is entitled to submit its counterproposal at such a late date. BDE's claim based on improper notice must be rejected. In assignment cases such as this, the Commission lists only those communities in which *new* preclusion would occur as a result of the proposed assignments. The Commission does not list all those communities which are already precluded from receiving an assignment under the existing Table of Assignments, but which could receive the channel proposed to be reassigned. In the present case, Cleveland was already precluded due to the assignment of Channel 272A in Pawhuska. Cleveland will be similarly precluded if that channel is reassigned to Sand Springs. Cleveland had no channel available to it on a drop-in basis before

[2] MSR filed motions to strike all of Westside's comments because they were filed several days after the filing deadline. Westside explained that the comments were mailed several days before the deadline and that previous experience lead it to believe that the comments would be received on time. Because the comments were only several days late, and MSR had an opportunity to respond to the merits of the filings, we have decided to consider the substance of Westside's comments.

[3] Two months following the close of the pleading cycle, Advance filed comments supporting the assignment to West Tulsa. Advance argues that a channel at West Tulsa could be used to serve the significant minority populations living in the north sections of Tulsa. Advance explains that it had just learned of the Commission's proceeding which is why its comments were filed late. We have not considered Advance's comments, but because of our resolution of the "community" issue at para. 6, below, we do not believe our refusal to consider Advance's comments is prejudicial.

[4] Unless otherwise indicated, all population data are taken from the 1980 U.S. Census.

[5] *Coker, Alabama*, 43 R.R. 2d 190, 193 (Broadcast Bureau, 1978).

the Sand Springs proposal was announced. The Sand Springs proposal for Channel 272A does not by itself make a channel available to Cleveland. It is the deletion of Channel 272A from Pawhuska that does so and that deletion could have been requested by BDE at any time. In fact, BDE may now suggest another substitution for Pawhuska or for some other community so as to make a channel available to Cleveland and that proposal would be entitled to the same consideration given to any other proposal. In view of the above, we find BDE's justification for submitting an untimely counterproposal for Cleveland to be unacceptable. Consequently, the counterproposal of BDE is dismissed. *See* § 1.420(d) of the Commission's Rules.

9. In light of the above, we believe that the assignment of Channel 272A to Sand Springs would serve the public interest. MSR has presented persuasive evidence of Sand Springs' need for a first local FM outlet. As stated in the *Notice,* the assignment of Channel 272A to Sand Springs requires a site restriction of 7.3 kilometers (4.6 miles) north. To accommodate the assignment to Sand Springs, Channel 285A will be substituted for Channel 272A at Pawhuska. The assignment of Channel 285A to Pawhuska requires a site restriction of 10.5 kilometers (6.6 miles) north-northwest.

10. Accordingly, it is ordered, That effective November 16, 1981, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the following communities:

City	Channel No.
Pawhuska, Oklahoma	285A.
Sand Springs, Oklahoma	272A.

11. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

12. It is further ordered, That this proceeding is terminated.

13. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-27272 Filed 9-17-81; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 46, No. 181
Friday, September 18, 1981

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 470

Personnel Management Research Programs and Demonstration Projects

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: Under the authority granted by the Civil Service Reform Act of 1978, the Office of Personnel Management is proposing regulations to implement programs which permit OPM to conduct or sponsor personnel management research and demonstration projects.

COMMENT DATE: Written comments will be considered if received no later than November 17, 1981.

ADDRESS: Send or deliver written comments to Mr. Frederick A. Kistler, Director, Office of Planning and Evaluation, Office of Personnel Management, Room 3305, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Donald Hill, (202) 632-4628.

SUPPLEMENTARY INFORMATION: A program for personnel management research and demonstration projects was enacted October 13, 1978, under Title VI of the Civil Service Reform Act of 1978 (Pub. L. 95-454, 92 Stat. 1185) and codified under chapter 47 of title 5, United States Code. The purposes of these programs are to stimulate and conduct personnel management research and to test new and different personnel management concepts under controlled conditions.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The Director, Office of Personnel Management, certifies that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units, and small government jurisdictions.

Office of Personnel Management.
Beverly McCain Jones,
Issuance System Manager.

Accordingly, the Office of Personnel Management proposes to add to Title 5 of the Code of Federal Regulations a new Part 470 to read as follows:

PART 470—PERSONNEL MANAGEMENT RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

Subpart A—General Provisions

Sec.
470.101 Statutory authority.
470.103 Definitions.

Subpart B—Regulatory Requirements Pertaining to Research Programs

470.201 Purposes of research programs.
470.203 Eligible parties.
470.205 Initiation of research programs.

Subpart C—Regulatory Requirements Pertaining to Demonstration Projects

470.301 Program expectations.
470.303 Eligible parties.
470.305 Submission of proposals for demonstration projects.
470.307 Notification responsibilities.
470.309 Public hearing.
470.311 Final project approval.
470.313 Project implementation regulations.
470.315 Project evaluation.

Authority: 5 U.S.C. 4706.

Subpart A—General Provisions

§ 470.101 Statutory authority.

(a) Section 4702, title 5, United States Code, provides the Office of Personnel Management (OPM) with the authority to:

(1) Establish and maintain, and assist in the establishment and maintenance of, research programs to study improved methods and technologies in Federal personnel management;

(2) Evaluate the research programs established under paragraph (a)(1) of this section;

(3) Establish and maintain a program for the collection and public dissemination of information relating to personnel management research, and for encouraging and facilitating the exchange of information among interested persons and entities; and

(4) Carry out the preceding functions directly or through agreement or contract.

(b) Section 4703, title 5, United States Code, provides OPM with the authority to conduct and evaluate demonstration projects to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management.

(c) This part supplements and implements the provisions of chapter 47 of title 5, United States Code, relating to the conduct of personnel research programs and demonstration projects, and must be read together with those provisions of law.

§ 470.103 Definitions.

In this part:

"Demonstration Project" means a project conducted by the Office of Personnel Management, or under its supervision, to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management (5 U.S.C. 4701). The project must require the waiver of a provision of law which is eligible for waiver under the demonstration authority contained in 5 U.S.C. 4703. A project which can be undertaken under an agency's own authority and does not require the waiver of a provision of law is not considered a "demonstration project" for purposes of this part.

"Research" means systematic, intensive study directed toward fuller scientific knowledge or understanding of the subject studied. Activities classified as research are structured experimental or descriptive investigations conducted according to sound methodological principles.

"Research Program" means a planned study of the manner in which public management policies and systems are operating or have operated, the effects

of those policies and systems, the possibilities for change, and comparisons among policies and systems.

Subpart B—Regulatory Requirements Pertaining to Research Programs

§ 470.201 Purposes of research programs.

The purposes of research programs undertaken under this subpart are to stimulate and conduct personnel management research which:

(a) Develops new knowledge, techniques, and materials about personnel management;

(b) Seeks solutions to personnel management problems;

(c) Provides a factual base to support existing or proposed changes in personnel management policies, techniques, and materials;

(d) Modifies or develops personnel management systems which improve the management of the Federal Government's human resources;

(e) Gathers, makes explicit, and systematizes the knowledge and techniques of practicing managers for the guidance of others and as a factual basis for research needs determination; or

(f) Develops new methods or provides new standards for conducting personnel management research.

§ 470.203 Eligible parties.

Research may be conducted by the Office of Personnel Management or under contract or agreeement, as appropriate, by:

(a) Federal agencies;

(b) State and local governments;

(c) Institutions of higher education;

(d) Public interest organizations;

(e) Individuals; or

(f) Other public or private institutions or organizations, profit or nonprofit.

§ 470.205 Initiation of research programs.

OPM will announce opportunities for research contracts by issuing Requests for Proposals (RFP's) in accordance with Federal procurement regulations. Unsolicited proposals may be accepted; however the relevance of the proposed research to OPM research needs will be examined to determine the acceptability of the proposal.

Subpart C—Regulatory Requirements Pertaining to Demonstration Projects

§ 470.301 Program expectations.

(a) Demonstration projects permit the Office of Personnel Management and Federal agencies to test alternative personnel management concepts in controlled situations to determine the likely effects and ramifications of proposed changes before putting them into general effect. OPM encourages agencies to propose demonstrations whether or not a waiver of law or regulation is needed. OPM will assist agencies, within available resources, in developing projects which demonstrate new or improved personnel methods.

(b) The demonstration project must be proposed in a research context. The project plan must include a research design which contains:

(1) Measurable goals or objectives;

(2) Acceptable expected results or outcomes;

(3) A description of the procedures, methods and techniques to be demonstrated in achieving the desired goals or objectives;

(4) An evaluation section describing the data collection and analysis procedures to be used to assess the success or failure of the project from a qualitative and quantitative standpoint;

(5) A test control within the agency, or with another agency similar in mission, organization, occupations, or other elements being tested; and

(6) An itemization of all costs and benefits associated with the project, to the agency, the Government, and the community.

(c) OPM will establish and maintain programs which publish, exchange and apply the results of demonstration projects.

(d) OPM may seek legislation, or to the extent already authorized by law, make changes in regulation to implement permanently successful procedures, techniques, new management knowledge, and materials which improve personnel management program or techniques.

§ 470.303 Eligible parties.

(a) Any Federal agency, or groups of two or more Federal agencies, eligible to propose demonstration projects under 5 U.S.C. 4701(a)(1) and 4701(b) may conduct demonstration projects after approval by the Office of Personnel Management and required Congressional and public reivew.

(b) While only a Federal agency may propose and conduct a demonstration project, the agency may be assisted in the conduct and evaluation of the project under contract or agreement with individuals or other public or private institutions and organizations.

§ 470.305 Submission of proposals for demonstration projects.

(a) OPM will accept project proposals at any time. However, OPM may hold proposals until comparisons can be made with other projects.

(b) Agencies must submit the project proposal in the form of a project plan to OPM for approval. OPM will prescribe the content of a project plan in its guidance and instructions, which at a minimum will contain the items identified in 5 U.S.C. 4703(b)(1) and 5 CFR 470.301(b).

(c) Agencies will outline, at the time proposed demonstration projects are submitted to OPM for approval, what discussions of the project have been held with labor organizations which have been accorded exclusion recognition for bargaining units containing employees involved in or affected by the proposed demonstration project.

(d) OPM may combine and evaluate similar project proposals received from different agencies as a single project, with the approval of the agencies involved.

§ 470.307 Notification responsibilities.

(a) 5 U.S.C. 4703 requires notification of tentatively approved demonstration project plans to Congress, employees, labor organizations, and the public.

(b) OPM shall:

(1) Notify each House of the Congress 180 days in advance of the beginning of each project; and

(2) Public each tentatively approved project plan as a notice in the Federal Register.

(c) Each agency having a tentatively approved project plan shall:

(1) Notify and make available copies of the project plan to:

(i) All employees who may be interested in or affected by the activities of the demonstration project; and

(ii) All labor organizations accorded exclusive recognition for bargaining units which include employees in or affected by the project plan.

(2) Observe the consultation and negotiation requirements of 5 U.S.C. 4703(f) and (g).

§ 470.309 Public hearing.

(a) Notice of public hearing. OPM shall hold a public hearing no less than 30 days after the date of its notice in the Federal Register during which interested persons or organizations may present their written or oral views concerning the proposed demonstration project. The notice of public hearing shall be published in the Federal Register and shall:

(1) State the date, time, place and purpose of the hearing;

(2) Describe briefly the project;

(3) Indicate where more information and a copy of the project plan may be obtained;

(4) State the name and address of the person who will receive written comments from those unable to attend the hearing; and

(5) Indicate the date by which written comments must be received to be considered.

(b) Nature of public hearing. The hearing will be informal to encourage effective oral presentations by interested individuals and organizations. The presiding officer, designated by the Director, OPM, shall in his or her reasonable discretion regulate the course of the proceedings and the conduct of those present at the hearing by appropriate means.

(c) A written summary shall be made of the oral evidence.

(d) The record shall be left open for 2 weeks after the conclusion of the hearing to receive additional written data, views, and arguments from the parties participating in the hearing.

§ 470.311 Final project approval.

(a) The Office of Personnel Management will consider all timely relevant oral and written views, arguments, and data before final approval or disapproval of a project plan. OPM may request that the agency modify the tentatively approved project plan before final approval because of comments and data received from the Congress, the public, labor organizations, and affected employees.

(b) The Office of Personnel Management shall provide a copy of the final version of the project plan to each House of the Congress at least 90 days in advance of the date the project is to take effect.

(c) Agencies involved in the project shall communicate the content of the final project plan to:

(1) Labor organizations and affected employees; and

(2) Individuals and groups known to be interested in the project's activities.

§ 470.313 Project implementation regulations.

Agencies will prepare demonstration project implementing regulations, as appropriate, to replace Government-wide statutes and regulations waived for the project. Demonstration project implementing regulations issued pursuant to an OPM-approved demonstration project must be approved by OPM and shall have full force and authority pursuant to Title VI of the Civil Service Reform Act of 1978.

§ 470.315 Project evaluation.

(a) *Compliance evaluation.* OPM will review the operation of the project periodically to determine its compliance with the requirements of this part and the approved project plan. If OPM determines that an agency is not meeting legal, regulatory or project plan requirements, it may, as appropriate, direct the agency to take corrective action or terminate the project.

(b) *Results evaluation.* All approved project plans will contain an evaluation section to measure the impact of the project results in relation to its objectives and to determine whether or not permanent changes in law and/or regulation should be considered or proposed. Where the project plan provides for agency evaluation of project results, OPM will review those project evaluation efforts, and may conduct evaluations of its own, on a sample basis, to verify results.

[FR Doc. 81-27158 Filed 9-17-81; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Part 890

Federal Employees Health Benefits Program, Benefits for Medically Underserved Areas

AGENCY: Office of Personnel Management.

ACTION: Proposed Regulations.

SUMMARY: The Office of Personnel Management proposes to amend its regulations on benefits under the Federal Employees Health Benefits (FEHB) Program for individuals in medically underserved areas. This amendment is necessary to comply with the January 2, 1980, amendment to the FEHB law, which mandates special consideration for enrollees of certain FEHB plans who receive covered health services in states with critical shortages of primary care physicians.

COMMENT DATE: Written comments will be considered if received no later than November 17, 1981.

ADDRESS: Send or deliver written comments to Craig B. Pettibone, Director, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, 1900 E Street N.W. (Rm. 4351), Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Lauretta Hall, Issuances and Instructions Unit, Office of Pay and Benefits Policy, (202) 632-4684.

SUPPLEMENTARY INFORMATION: On July 18, 1980, the Office of Personnel Management published Federal Register (45 FR 48098) a new Subpart G under 5 CFR, Part 890, as final regulations. Subpart G pertains to administration of 5 U.S.C. 8902(m)(2), as added to the Federal Employees Health Benefits (FEHB) law by Pub. L. 95-368, approved September 17, 1978, and amended by Pub. L. 96-179, approved January 2, 1980. The law provides that effective January 1, 1980, and continuing through December 31, 1984, FEHB plans (except comprehensive prepayment medical plans), whose contracts specify payment or reimbursement for care or treatment of a particular health condition, must also provide benefits up to the limits of their contracts in return for health services rendered by any medical practitioner who is properly licensed to render such service, when the health service is provided to a plan member "in a State where 25 percent or more of the population is located in primary medical care manpower shortage areas designated under section 332 of the Public Health Service Act."

By comparing State-by-State statistics furnished by the Department of Health and Human Services (Selected Statistics on Health Manpower Shortage Areas—December 31, 1980, Report No. 81-11) with U.S. Census figures on State resident populations (1980 Census of Population and Housing PHC80-V-1), OPM has determined that 5 U.S.C. 8902(m)(2), as amended by Pub. L. 96-179, is applicable in the following 11 States as of January 1, 1982: Alabama, Alaska, Kentucky, Mississippi, Missouri, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, and West Virginia. The determination differs from OPM's 1981 determination in that the state of Indiana has been dropped.

Each year while this provision of the FEHB law remains in effect, OPM will review current data on primary medical care manpower shortage areas and State populations. If OPM determines that the status of any State has changed for purposes of 5 U.S.C. 8902(m)(2), OPM will again publish an amendment to its regulations (5 CFR Part 890, Subpart G).

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purpose of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The Director, Office of Personnel Management, certifies that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

Office of Personnel Management.

Beverly McCain Jones,

Issuance System Manager.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Accordingly, OPM proposes to amend 5 CFR 890.701 to read as follows:

§ 890.701 Definitions.

* * * * *

"Medically underserved area" includes any of the 50 States of the United States where the Office of Personnel Management determines that 25 percent or more of the residents are located in primary medical care manpower shortage areas designated pursuant to section 332 of the Public Health Service Act (42 U.S.C. 254e). The Office has determined that effective January 1, 1982, the following states are "medically underserved areas" for purposes of this subpart: Alabama, Alaska, Kentucky, Mississippi, Missouri, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, and West Virginia.

(Pub. L. 96-179)

[FR Doc. 81-27157 Filed 9-17-81; 8:45 am]

BILLING CODE 5325-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50, 70, and 73

Safeguards Requirements for Nonpower Reactor Facilities Authorized to Possess Formula Quantities of Strategic Special Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amendments to its physical protection regulations for nonpower reactor facilities authorized to possess formula quantities of strategic special nuclear material. The amendments would provide as a minimum that these facilities be protected at the level required for special nuclear material of moderate strategic significance, regardless of the amount of strategic special nuclear material for which the licensee would otherwise have been exempted because of an external radiation dose rate in excess of 100 rem per hour at 3 feet. These amendments would also require additional physical protection measures against theft of special nuclear material, beyond the minimum level, when the amount of possessed strategic special nuclear material having a radiation dose rate below the exemption level equals or exceeds a formula quantity.

DATES: Comments must be received on or before November 17, 1981. Comments received after that date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before that date.

ADDRESSES: Comments or suggestions for consideration in connection with the proposed amendments should be sent to the Secretary of the Commission, Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Comments may also be delivered to Room 1121, 1717 H Street, N.W., Washington, D.C. Comments received will be available for examination and copying at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. C. K. Nulsen, Regulatory Improvements Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301-427-4181).

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission is considering amendments to its physical protection regulations for nonpower reactor facility licensees authorized to possess a formula quantity or more of strategic special nuclear material (SSNM). The amendments would replace existing interim requirements for the physical protection of these facilities now set forth at 10 CFR 73.60. Some nonpower reactor operators, although they may possess formula quantities of SSNM, currently would be required to provide only minimal physical protection for this material since some of their material typically is irradiated to a level which would qualify them for exemption under § 73.67(b)(1)(i). The exemption is based on the deterrent effect of an external radiation dose rate in excess of 100 rem per hour at 3 feet from any accessible surface without intervening shielding.

The amendments would require nonpower reactor licensees authorized to possess formula quantities of strategic special nuclear material to protect the material they possess at least at the level prescribed in § 73.67(d) for special nuclear material (SNM) of moderate strategic significance. This requirement would apply regardless of what portion of the material possessed is irradiated in excess of the 100 rem/h external radiation dose rate level. The amendments also require that additional physical protection measures, specified in a new paragraph, § 73.67(h), be provided during periods when the amount of SSNM possessed having an external dose rate not exceeding the 100 rem/h level equals or exceeds a formula quantity. The additional measures are designed to provide the affected nonpower reactor facilities with a level of protection comparable to that provided for formula quantities of SSNM at fuel cycle facilities, while taking advantage of a number of specific facility and fuel design features that collectively offer inherent protection against theft.

At most of the nonpower reactor facilities that would be affected by the proposed amendments, the external radiation dose rate for SSNM used as reactor fuel is kept sufficiently high to allow the facility to be protected continuously at the level required for SNM of moderate strategic significance. Only rarely would the external radiation dose rate of the fuel drop sufficiently to require the additional physical protection measures described in the proposed § 73.67(h). These periods can be anticipated by the licensee, permitting sufficient time for the required additional physical protection measures to be implemented.

Nonpower reactors possessing formula quantities of SSNM previously had been designated as facilities requiring protection for SNM of moderate strategic significance, but also were required to provide a set of additional physical protection measures specified in § 73.60, on an interim basis [44 FR 68199], until several technical issues could be resolved to determine the level of physical protection appropriate for these facilities. The issues which were examined are discussed below.

Technical Basis for Radiation Dose Rate Exemption Level

The existing exemption level, 100 rem/h at 3 feet from any accessible surface without intervening shielding, was found to be appropriate and is not changed. The Commission has determined that it is appropriate to allow credit towards safeguards based upon radiation levels due to the deterrent quality of nuclear radiation and the adversaries' difficulty in

accurately determining irradiation levels. The current exemption level, which is internationally accepted, does not, however, preclude the possibility of a dedicated adversary, heedless of the subsequent effects of the radiation exposure, successfully removing a formula quantity of SSNM from a nonpower reactor facility before being physically incapacitated by the radiation effects. For this reason, it is considered prudent to require that the minimum level of physical protection provided for these nonpower reactor facilities be the same as that for SNM of moderate strategic significance, regardless of the amount of SSNM possessed which is irradiated beyond the 100 rem/h at 3 feet level.

Safeguards Credit for Design Features

The staff considered the feasibility of allowing safeguards credit for unique design features of reactors and fuel types under study. The following conclusions were reached: (a) A TRIGA FLIP type fuel cluster may be considered a discrete unit in determining external radiation dose rates for exemption purposes; (b) some safeguards credit can be given for the use of TRIGA FLIP type fuel because reprocessing difficulties make it an undesirable theft target; (c) some safeguards credit can be given for the use of MTR plate-type fuel, but to a lesser degree than for TRIGA FLIP type fuel; (d) some safeguards credit can be given for the design of the Argonaut and tank-type reactors because of the difficulty in gaining access to the reactor core; (e) some safeguards credit can be given for the design of open pool-type reactors because of the difficulty in removing fuel from the pool, but to a lesser degree than for the Argonaut and tank-type reactors. Based upon these considerations, the Commission has determined that the additional physical protection requirements included in § 73.67(h) of the proposed amendments would provide for a level of protection comparable to that required for formula quantities of SSNM at fuel cycle facilities. It would be less burdensome for NPR licensees to implement these physical protection requirements than to implement the same requirements that fuel cycle facilities possessing formula quantities must implement.

Contiguous Sites

The Commission has also determined that if two sites at one facility are to be considered noncontiguous they should be in separate structures and have separate and redundant physical security systems. The licensees that originally informally requested that their facilities be considered as two separate noncontiguous Category II sites either withdrew their requests or reduced their holdings below a formula quantity.

The determinations and conclusions noted above have been used in the development of the proposed amendments. These amendments have as their objective reducing the risk of theft of a formula quantity of SSNM, and thus reducing the risk to the public health and safety. The licensees are required to maintain at all times a capability for implementing the additional physical protection measures specified in new paragraph 73.67(h). They are not required, however, to implement them unless they possess a formula quantity of SSNM with radiation dose rates below the 100 rem/h exemption level. For all except one licensee, this would occur only under unusual circumstances which prevented the licensee from maintaining a normal irradiation operating schedule. The specific additional measures required include: (1) additional physical barriers around the SSNM; (2) improved intrusion and radiation detection capabilities; (3) a two-person occupancy rule for controlled access areas where the material is used and stored; (4) exit searches; (5) requirements for redundancy in communications; (6) 48-hour advance notice by the licensee to the NRC when it is expected the additional requirements will need to be implemented; and (7) coordination of local law enforcement agency (LLEA) response times and physical security system capabilities to assure offsite response forces will arrive before a formula quantity of SSNM can be removed.

Several nonsubstantive clarifying amendments to the currently effective Parts 50, 70, and 73 are also proposed. These amendments do not modify current practices or applications of the regulations, but will clarify the text of several sections.

The Commission endorsed the approach in the proposed rule based on several considerations. The Commission acknowledges that the existing exemption level, 100 rem/hr at three feet, is not an incapacitating dose rate, but serves as a deterrent to theft. In addition, the Commission believes that this dose rate will be a significant deterrent to the processing of the material for use as a weapon particularly recognizing the small quantities of material present at these reactors and the inherent difficulty in preprocessing the TRIGA and MTR plate-type fuel used in nonpower reactors. However, the Commission also has considered this dose rate in view of the ALARA principle and believes that higher dose rates would encourage reactor operation simply to meet the regulatory exemption level. This is against the ALARA principle in that reactors might be operated at radiation levels higher than necessary.

Commissioners Gilinsky and Bradford favor an alternative approach and would like public comment on it. The Commission does not object to their requesting such comments, but because the Commission does not endorse the alternative, comments in support of that proposal will not form a basis for adopting a final rule without another round of comment. Commentators desiring to influence the Commission to adopt this alternative are therefore advised to frame their views as negative comment on the Commission proposal.

The approach favored by Commissioners Gilinsky and Bradford would require all nonpower reactors that possess in excess of 5 kilograms of highly enriched uranium fuel to implement the safeguards upgrade rule. An exemption from this requirement would be provided if the fuel emits external radiation at a rate that would produce a dose greater than 2000 rem per hour at 3 feet, a level at which the fuel is considered to be self-protecting.

This approach is more consistent with the present protection requirements for highly enriched uranium than the Commission's approach in that significant quantities of unirradiated highly enriched uranium fuel would be treated in the same way, whether they were at a fuel cycle plant or at a university.

The 100 rem/hr at 3 feet exemption level contained in the Commission proposal does not, in fact, provide self-protection to the fuel. Rather, as a study performed by Los Alamos Scientific Laboratory (LASL) for the staff clearly states,[1] 100 rem/hr is not great enough to impair the actions of the group attempting theft. The study concludes that for an incapacitating dose (to individuals attempting to remove the fuel from the facility), the dose rate per element must reach at least several thousand rem per hour at 3 feet.

Finally, Commissioners Gilinsky and Bradford note that a severe protection regime would not be necessary at university and other research reactors if these reactors switched to fuels using lower enrichment uranium which cannot

[1] *Special Nuclear Material Self-Protection Criteria Investigation, Phases I and II*, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, (J. J. Kloelling, E. W. Barts), December 22, 1980.

be used to make weapons. That in their view is the best course.

Separate Views of Commissioner Bradford on the Proposed Rule on Physical Security Requirements for Nonpower Reactor Licensees Authorized to Posses Formula Quantities of Strategic Special Nuclear Material

I am concerned with both the substance and the procedure of this Commission action. Substantively, it is a serious error to contemplate a long-term arrangement under which highly enriched uranium at university reactors might be afforded less protection than the same material elsewhere. There is nothing about a university environment that is inherently any safer than the rest of the nation as a location for material that can be directly used in the making of nuclear bombs. This material has that extraordinary potential, and the commission should be seeking comment on a rule that protects it uniformly wherever it might be stolen.

As a procedural matter, this is the first rulemaking that I can recall in which the Commission has declined to seek comment on positions encompassing the full range of views among the Commissioners. Despite staff studies suggesting required external radiation dose rate levels up to 3,000 rem per hour, the only number being proposed for comment is 100 rem per hour. While the public is, of course, still free to urge a significantly higher level of protection than that proposed here, the nonpower reactor operators are not given notice that this rulemaking might end in such a result. It would have been far better to invite comment on a range as possible exposure standards and protection formats, indicating if necessary a Commission preference as of now for the lower end of the range. This would have avoided the suggestion that a particular type of reactor owner is being unduly favored and would have preserved the Commission's valuable past practice of seeking comment on each of the courses of action that we might follow.

Paperwork Reduction Statement

The Nuclear Regulatory Commission has submitted this proposed rule to the Office of Management and Budget for such review as may be appropriate under the Paperwork Reduction Act, P.L. 96-511. The SF-83, "Request for Clearance," Supporting Statement, and other related documentation submitted to OMB have been placed in the Public Document Room at 1717 H St., N.W., Washington, DC 20555 for inspection and copying for a fee.

Regulatory Flexibility Statement

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule would amend 10 CFR Part 73 to require any nonpower reactor licensee authorized to possess a formula quantity of strategic special nuclear material (SSNM) to submit amendments to their physical security plans. These plans would include certain additional security precautions that would be implemented when a sufficient amount of the licensee's irradiated fuel drops below the 100 rem/h at 3 feet external radiation dose rate exemption level resulting in the licensee possessing a formula quantity of nonself-protecting fuel. At this time the proposed amendments would require only 15 licensees to submit revised security plans, and only one nonpower reactor licensee would probably implement the additional security measures at a cost of less than $3000. The amendment probably would not affect any future licensees since they would not build a nonpower reactor requiring a formula quantity of SSNM.

The 15 licensees include three large companies (Union Carbide Corp., General Atomic Corp.—a subsidiary of Gulf Corp., and General Electric Corp.), ten major universities (Georgia Tech, University of Wisconsin, Massachusetts Institute of Technology, University of Michigan, University of Virginia, Oregon State University, Virginia Polytechnic Institute, Texas A&M, University of Missouri at Columbia, and Washington State University), the National Bureau of Standards (NBS), and the Rhode Island Atomic Energy Commission. The three corporations each employ in excess of 500 employees and have annual sales in excess of $1 million. The ten universities each employ in excess of 500 persons and have annual revenues in excess of $1 million for services they provide. NBS and the Rhode Island Atomic Energy Commission are Federal and state agencies, respectively. None of these affected licensees fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards in regulations issued by the Small Business Administration at 13 CFR Part 21.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 50, 70 and 73 is contemplated.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 is revised to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2239); secs. 201, 202, 206, 88 Stat. 1243, 1244, 1246 (42 U.S.C. 5841, 5842, 5846), unless otherwise noted. Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended; (42 U.S.C. 2234). Sections 50.100–50.102 issued under sec. 188, 68 Stat. 955; (42 U.S.C. 2236). For the purposes of sec. 223, 68 Stat. 958, as amended; (42 U.S.C. 2273). § 50.54(i) issued under sec. 161i, 68 Stat. 949; (42 U.S.C. 2201(i)), §§ 50.70, 50.71 and 50.78 issued under sec. 161o, 68 Stat. 950, as amended; (42 U.S.C. 2201(o)) and the laws referred to in Appendices.

2. Paragraphs (c) and (d) of § 50.34 are revised to read as follows:

§ 50.34 Contents of applications; technical information.

* * * * *

(c) *Physical security plan.* Each application for a license to operate a production or utilization facility must include a physical security plan.

(1) For production and utilization facilities other than nonpower reactor facilities, the plan must consist of two parts. Part I must address vital equipment, vital areas, and isolation zones, and must demonstrate how the applicant plans to comply with the requirements of Part 73 of this chapter, as appropriate, at the proposed facility. Part II must list tests, inspections, and other means to be used to demonstrate compliance with these requirements, as appropriate.

(2) For nonpower reactor facilities, the plan must demonstrate how the applicant plans to comply with the requirements of Part 73 of this chapter, as appropriate, at the proposed facility, and include tests, inspections, and other means to be used to demonstrate compliance with these requirements.

(d) *Safeguards contingency plan.* Each application for a license to operate a production or utilization facility subject to § 73.50 or § 73.55 of this chapter must include a licensee safeguards contingency plan in accordance with the criteria set forth in Appendix C to Part 73 of this chapter. The safeguards contingency plan must include plans for dealing with threats, thefts, and radiological sabotage, as defined in Part 73 of this chapter, relating to the special

nuclear material and nuclear facilities licensed under this chapter and in the applicant's possession and control. Each licensee's application must include the information contained in the applicant's safeguards contingency plan, as set forth in Appendix C to Part 73 of this chapter in the categories of Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.[5]

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

3. The authority citation for Part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, as amended, 948, as amended, 953, as amended, 954 (42 U.S.C. 2071, 2073, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846) unless otherwise noted.

For the purposes of Sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 70.3, 70.19(c), 70.21(c), 70.22(a), (b), (d)–(k), 70.24(a) and (b), 70.32(a)(3), (5), and (i), 70.36, 70.39(b) and (c), 70.41(a), 70.42(a) and (c), 70.56, are issued under Sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 70.20a(d), 70.32(a)(β), (c), (d), (e) and (g), 70.36, 70.51(c)–(g), 70.56, 70.57(b) and (d), 70.58(a)–(g)(3) and (h)–(j), and 70.81–89 are issued under Sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.32(h), 70.51(b) and (i), 70.52, 70.53, 70.54, 70.55, 70.58(g)(4), (k) and (l), 70.59, are issued under Sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

4. Paragraphs (h) and (k) of § 70.22 are revised to read as follows:

§ 70.22 Contents of applications.

* * * * *

(h) Each application for a license to possess or use a formula quantity of strategic special nuclear material, as defined in paragraph (bb) of § 73.2 of this chapter, at any site or contiguous sites subject to control by the licensee, must include a physical security plan consisting of two parts. Part I must address vital equipment, vital areas, and isolation zones, and must demonstrate how the applicant plans to meet the requirements of §§ 73.20, 73.40, 73.45, 73.46, 73.50, 73.70, and 73.71 of this chapter in the conduct of the activity to be licensed. Part II must list tests, inspections, and other means to demonstrate compliance with these requirements. These requirements do not apply to a license for possession or use of this material in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter.

* * * * *

(k) Each application for a license to possess or use a formula quantity of strategic special nuclear material for use in the operation of a nonpower reactor, special nuclear material of moderate strategic significance, or 10 kg or more of special nuclear material of low strategic significance, as defined, respectively, under paragraphs (bb), (x) and (y) of § 73.2 this chapter, at any site or contiguous sites subject to control by the licensee, must include a physical security plan which demonstrates how the applicant plans to meet the requirements of paragraphs (d), (e), (f), (g), and (h), as appropriate, of § 73.67 of this chapter. These requirements do not apply to a license for possession and use of this material in the operation of a nuclear power reactor licensed pursuant to Part 50 of this chapter.

PARTS 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

5. The authority citation for Part 73 is revised to read as follows:

Authority: Secs. 53, 161b, 161i, 161o, Pub. L. 85–703, 68 Stat. 930, 948–950, as amended, Pub. L. 85–507, 72 Stat. 327, Pub. L. 88–489, Stat. 602, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2073, 2201); Sec. 201, Pub. L. 93–438, 88 Stat. 1242, 1243, as amended, Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 5841)

For the purposes of Sec. 223, 68 Stat. 958, as amended, 42 U.S.C. 2273, § 73.55 is issued under Sec. 161b, 68 Stat. 948, as amended, 42 U.S.C. 2201(b); §§ 73.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, and 73.67 are issued under Sec. 161i, 68 Stat. 949, as amended, 42 U.S.C. 2201(i); and §§ 73.20(c)(i), 73.24(b)(1), 73.26(b)(3), (h)(6), (i)(6) and (k)(4), 73.27(a) and (b), 73.40(b) and (d), 73.46(g)(6) and (h)(2), 73.50(g)(2), (3)(iii)(B) and (h), 73.55(h)(2), and (4)(iii)(B), 73.70, 73.71, and 73.72 are issued under Sec. 161o, 68 Stat. 950, as amended, 42 U.S.C. 2201(o).

6. Paragraph (e) of § 73.6 is revised to read as follows:

§ 73.6 Exemptions for certain quantities and kinds of special nuclear material.

* * * * *

(e) Special nuclear material at nonpower reactors. Any licensee subject to § 73.67(h) is not exempt from §§ 73.70 and 73.72, and any licensee subject to § 73.67(e) is not exempt from § 73.72 of this part.

§ 73.60 [Removed]

7 Section 73.60 is removed.

8. In § 73.67, paragraphs (a), (b), the introductory text of (c) and (c)(2) and (3) are revised and a new paragraph (h) is added to read as follows:

§ 73.67 Licensee fixed site and intransit requirements for the physical protection of special nuclear material of moderate and low strategic significance and of formula quantities at nonpower reactors.

(a) General performance objectives and requirements. (1) Each licensee who possesses, uses, or transports special nuclear material of moderate or low strategic significance, shall establish and maintain a physical protection system that achieves the following objectives:

(i) Minimizes the possibilities for unauthorized removal of special nuclear material consistent with the potential consequences of such actions; and

(ii) Facilitates the location and recovery of missing special nuclear material.

(2) To achieve these objectives, the physical protection system must meet the following general performance requirements:

(i) Provide early detection and assessment of unauthorized access or activities by an external adversary within controlled access areas containing special nuclear material;

(ii) Provide early detection of removal of special nuclear material by an external adversary from controlled access areas;

(b) *Exemptions.* (1) A license is exempt from the requirements of this section to the extent that the licensee possesses, uses, or transports: (i) sealed plutonium-beryllium neutron sources totaling 500 grams or less contained plutonium at any one site or contiguous sites, or (ii) plutonium with an isotopic concentration exceeding 80 percent in plutonium-238.

(2) A licensee, other than a nonpower reactor licensee authorized to possess a formula quantity or more of strategic special nuclear material, is exempt from the requirements of this section to the extent that the licensee possesses, uses, or transports: Special nuclear material which is not readily separable from other radioactive material and which has a total external radiation dose rate in excess of 100 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding.

(3) A licensee, other than a nonpower reactor licensee authorized to possess a formula quantity or more of strategic special nuclear material, who has quantities of special nuclear material equivalent to special nuclear material of moderate strategic significance distributed over several buildings for each building which contains a quantity of special nuclear material less than or equal to a level of special nuclear

[5] A physical security plan that contains all the information required in both § 73.55 and Appendix C to Part 73 satisfies the requirement for a contingency plan.

material of low strategic significance, shall protect the material in that building at least at the level of the lower classification physical security requirements.

(c) Each licensee who possesses, uses, transports, or delivers to a carrier for transport, special nuclear material of moderate strategic significance or 10 kg or more of special nuclear material of low strategic significance, and each licensee who is authorized to possess a formula quantity of strategic special nuclear material for use in the operation of a nonpower reactor, shall:

(1) * * *

(2) Within 240 days after the effective date of these amendments or 30 days after the plan(s) submitted pursuant to paragraph (c)(1) of this section is approved, whichever is later, implement the approved security plan, and

(3) Each licensee of a nonpower reactor authorized to possess a formula quantity of strategic special nuclear material shall, in addition, (i) submit no later than 150 days after the date these amendments become effective a physical security plan or an amended physical security plan describing how the licensee will comply with all the requirements of paragraph (h) of this section, including schedules of implementation and methods used for determining external radiation dose rates of irradiated reactor fuel; and (ii) implement the approved physical security plan submitted pursuant to paragraph (c)(3)(i) of this section no later than 240 days after the date these amendments become effective or within 30 days after this plan is approved, whichever is later.

* * * * *

(h) Requirements for nonpower reactor licensees authorized to possess formula quantities of strategic special nuclear material.

(1) Each nonpower reactor licensee authorized to possess, at any site or contiguous sites subject to control by the licensee, a formula quantity of strategic special nuclear material shall establish and maintain a physical protection system meeting the requirements of paragraphs (a) and (d) of this section. During any period when the amount of strategic special nuclear material possessed equals or exceeds a formula quantity, not including irradiated strategic special nuclear material which is not readily separable from other radioactive material, and which has a total external radiation dose rate in excess of 100 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding, the physical protection system also must meet the following additional general performance requirements:

(i) Provide early detection and assessment of unauthorized access or activities by an insider adversary, or a conspiracy between insiders, within controlled access areas where special nuclear material is used or stored;

(ii) Provide early detection of attempts at removal of special nuclear material by an insider adversary, or a conspiracy between insiders, from controlled access areas where special nuclear material is used or stored; and

(iii) Provide for notification of the appropriate response forces, upon detection of attempts at unauthorized removal of special nuclear material from controlled access areas where the material is used or stored, in time to permit a response that will prevent the removal of a formula quantity of strategic special nuclear material.

(2) To meet the general performance requirements described in paragraphs (a) and (h)(1) of this section, during periods when required pursuant to paragraph (h)(1) of this section, the physical protection system must include the performance capabilities described in paragraphs (h)(3) through (h)(8) of this section, in addition to those described in paragraph (d) of this section.

(3) Deter access of unauthorized personnel into the controlled access areas required in paragraphs (d)(1) and (d)(2) of this section. To accomplish this the physical protection system must:

(i) Allow use and storage of the material only within controlled access areas encompassed by physical barriers.

(ii) Locate the controlled access areas within a protected area having separate and distinct physical barriers from the controlled access areas.

(iii) Provide access controls for the protected area similar to those required for controlled access areas in paragraphs (d)(4), (d)(5), (d)(6) and (d)(7) of this section.

(iv) Provide access controls for controlled access areas, in addition to those required in paragraphs (d)(4), (d)(5), (d)(6), and (d)(7) of this section, to assure that when controlled access areas are occupied, at least two authorized individuals are present and that a third authorized individual has knowledge of their presence in the controlled access area.

(v) Store the material only within controlled access areas which are controlled separately from areas where the material is used, or within a separately controlled locked compartment within a controlled access area where the material is used.

(4) Detect unauthorized activities and conditions within the protected area and the controlled access areas sufficiently to permit a response to prevent the unauthorized removal of a formula quantity of strategic special nuclear material from the controlled access areas. To accomplish this the physical protection system must:

(i) Employ, in addition to the physical security intrusion alarms or other devices or procedures required in paragraph (d)(3) of this section, tamper-safe radiation detection equipment in the controlled access area in the vicinities of the reactor core and storage pool capable of detecting the unauthorized movement of irradiated reactor fuel. The sensors must alarm upon detecting radiation at levels equal to or greater than those generated by a source at floor level having a total external radiation dose rate no greater than 10 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding. The alarm must be monitored at a location remote from the building where the sensors are installed.

(ii) Monitor the protected area with an intrusion alarm or other devices or procedures to detect unauthorized penetration or activities.

(iii) Detect attempts at unauthorized access to all special equipment kept in the controlled access areas which are normally used to gain access to the special nuclear material located in the reactor core or storage pool.

(iv) Assure that a single adversary action is not capable of preventing the communication of detection information from the controlled access areas to the onsite response forces, and

(5) Prevent unauthorized removal of formula quantities of strategic special nuclear material from the controlled access areas. To accomplish this the physical protection system must:

(i) Provide barriers at the controlled access area boundaries to deter and delay the unauthorized removal of the material at other than attended controlled access area exit control points.

(ii) Detect attempts at unauthorized removal of strategic special nuclear material at attended controlled access area exit control points through the use of personnel, vehicle, and package exit searches, as appropriate, capable of detecting the presence of concealed special nuclear material.

(6) Provide a response capability to assure that the requirements of paragraphs (h)(1) through (h)(3) of this section can be achieved. To accomplish this the physical protection system must:

(i) Assure that the response time of offsite response forces is less than the minimum time required for an adversary

to remove a formula quantity of strategic special nuclear material from the reactor core and storage.

(ii) Assure that a single adversary action cannot destroy the capability of the security organization to notify offsite response forces of the need for assistance.

(7) Notify the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix A by telephone at least 48 hours in advance of the time the licensee expects to possess a formula quantity of nonexempt strategic special nuclear material exclusive of the type of irradiated material described in paragraph (h)(i) of this section.

(8) Include procedures in the physical protection system to assure that intrusion alarms, physical barriers, and other devices used for material protection pursuant to the requirements of this section are:

(i) Available for use in operable condition when required, and

(ii) Inspected and tested for operability and required functional performance immediately before and during periods they are required to be in use.

9. The introductory text and paragraph (c) of § 73.70 are revised to read as follows:

§ 73.70 Records.

Each licensee subject to provisions of §§ 73.20, 73.25, 73.26, 73.27, 73.45, 73.46, 73.55, or 73.67(h) shall keep the following records:

* * * * *

(c) A register of visitors, vendors, and other individuals not employed by the licensee pursuant to §§ 73.46(d)(10), 73.55(d)(6), or 73.67(h).

* * * * *

Dated at Washington, D.C. this 14th day of September 1981.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-27225 Filed 9-17-81; 8:45 am]

BILLING CODE 7590-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 377

[SPDR-83; Docket No. 39989; Dated: September 3, 1981]

Continuance of Expired Authorizations Pending Final Determination of Applications for Renewal

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB proposes to amend its rule that implements an Administrative Procedure Act provision for automatic extension of certain expiring licenses. The amendment would provide consistent treatment of foreign air carrier permits and exemptions issued to foreign citizens, and would clarify the scope of the rule. This proposal is at the CAB's initiative.

DATES: Comments by: November 17, 1981.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: October 5, 1981.

The Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 39989, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Gaynes, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5035.

SUPPLEMENTARY INFORMATION: In order to prevent lapses of authority that could result from the time lags inherent in the administrative process, the Administrative Procedure Act provides for automatic extension of licenses in certain cases, as follows:

> When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency. (5 U.S.C. 558(c))

The Board has issued rules in 14 CFR Part 377 to implement this statutory provision with respect to many, but not all, of the types of temporary authorizations that the Board grants. The rules establish requirements for "timely and sufficient" renewal applications (§ 377.10), including deadlines such as 30, 90, and 180 days before expiration. They also interpret "license with reference to an activity of a continuing nature" (§ 377.3).

The Board is now proposing amendments of Part 377 to (1) harmonize the timeliness requirements for applications to renew foreign air carrier permits and non-U.S. citizen exemptions, and (2) clarify the interpretation in § 377.3.

Timeliness

With the current scheme, a holder of an expiring foreign air carrier permit under section 402 of the Federal Aviation Act can obtain automatic extension by filing a renewal application at any time up to the expiration date. The technical reason for this is that Part 377 by its terms does not apply to section 402 permits, and the Board has held that in the absence of an agency rule on the subject, any application filed before the expiration is timely. This result reflects the special circumstances often surrounding applications by foreign persons, which can make earlier filing difficult. For example, foreign carriers must in some cases obtain approval from their home countries before filing applications with the Board.

The Board added a footnote to § 377.2 to explain that no advance filing was necessary to extend expiring section 402 permits when it reissued Part 377 in SPR-84, 40 FR 24998, June 12, 1975. Then, as now, the rule specified a 60-day filing deadline for applications to renew expiring exemptions under section 416 of the Act. At that time, the Board's authority to grant exemptions covered only U.S. air carriers. The Airline Deregulation Act of 1978 amended section 416 to allow the Board to grant exemptions to any person, U.S. or foreign. Since there was no amendment of Part 377, the 60-day filing deadline automatically extended to applications for renewal of expiring exemptions of foreign carriers and other foreign citizens.

We see no good reason to treat foreign exemption holders and foreign permit holders differently for the purposes of the Administrative Procedure Act's automatic extension provision. We are therefore proposing that in either case a renewal application be considered timely if filed at any time before the expiration date. We would do this by bringing section 402 permits expressly within the scope of Part 377 and specifying the liberal filing deadline in a revised § 377.10(c). An additional result of this approach would be to subject applications for renewal of section 402 permits to the other provisions of Part 377. Most notable among these is the requirement in § 377.10(a) that the application indicate the applicant's intention to rely on 5 U.S.C. 558(c).

Interpretation of 5 U.S.C. 558(c)

Section 377.3 currently states that an authorization granted for a period of 180 days or less is *not* considered a "license with reference to an activity of a continuing nature" within the meaning of 5 U.S.C. 558(c). It similarly excludes authorizations, other than section 401 certificates, that by their terms are subject to termination at an uncertain date upon the happening of an event. We propose no change in these provisions.

Section 377.3 then speaks of authorizations, other than section 401 certificates, that by their terms terminate alternatively upon the happening of an event or the arrival of a specified date. A typical example would be an exemption to serve a route that is granted for 1 year or until Board action on a permit application, whichever occurs first. We propose to clarify the treatment of such authorizations without substantive change and state it in a new § 377.4 by itself. The new section would state that if the event occurred before the specified date, automatic extension rights would be unavailable. Section 377.4(b) would provide that if the eveant did not occur before the date and the date was more than 180 days after the effective date of the authorization, automatic extension rights ordinarily would be available. The purpose of this provision would be to make it clear that in such cases automatic extension rights would not be denied by virtue of the alternative termination dates. The proposed rule states only that automatic extension rights "ordinarly" would be available because one of the basic principles of Part 377 is that it does not guarantee that any given authorization is covered by 5 U.S.C. 558(c).

A Board interpretation on the applicability of 5 U.S.C. 558(c) to any particular temporary authorization is available upon written request under the current § 377.4, which requires that the request be filed at least 60 days before the deadline for renewal applications. The proposed rule would renumber that section as § 377.5 and revise it to encompass requests from not only the holder of the authorization or a competitively affected U.S. air carrier, but also from a competitively affected foreign air carrier.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that this rule will not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. The economic impact would not be significant because the rule would simply relieve a minor procedural requirement.

The Proposed Rule

PART 377—CONTINUANCE OF EXPIRED AUTHORIZATIONS BY OPERATION OF LAW PENDING FINAL DETERMINATION OF APPLICATIONS FOR RENEWAL THEREOF

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 377, *Continuance of Expired Authorizations by Operation of Law Pending Final Determination of Applications for Renewal Thereof,* as follows:

PART 377—[RETITLED]

1. Part 377 would be retitled *Continuance of Expired Authorizations Pending Board Action on Renewal Requests.*

2. In § 377.1, the definition of "authorization" would be revised by adding "402,", so that it would read:

§ 377.1 Definitions.

As used in this part:

"Authorization" means any agency certificate, approval, statutory exemption or other form of permission granted pursuant to sections 101(3), 401, 402, 408, 409, 412 and 416 of the Federal Aviation Act of 1958, as amended. Where any operating authorization creates more than one separate route, each of these shall be deemed a separate authorization for the purposes of this part.

* * * * *

3. Section 377.2 would be revised to read:

§ 377.2 Applicability of part.

(a) This part implements the last sentence of 5 U.S.C. 558(c) with regard to temporary authorizations granted by the Board.

Note.—The last sentence of 5 U.S.C. 558(c) provides: "When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency."

(b) Nothing in this part prevents the Board from terminating at any time, in accordance with law, any authorization or any extension of an authorization.

(c) Nothing in this part constitutes a determination that any given authorization is a "license with reference to an activity of a continuing nature" within the meaning of 5 U.S.C. 558(c).

4. Section 377.3, *Authorizations not licenses with reference to an activity of a continuing nature,* would be retitled and revised, to read:

§ 377.3 Authorizations not covered by 5 U.S.C. 558(c).

The Board hereby determines that the following authorizations are not licenses "with reference to an activity of a continuing nature" within the meaning of 5 U.S.C. 558(c):

(a) Authorizations granted for a specified period of 180 days or less; and

(b) Authorizations, other than those granted under section 401 of the Act, that by their terms are subject to termination at an uncertain date upon the happening of an event, including fulfillment of a condition subsequent or occurrence of a contingency.

5. Section 377.4, *Procedure to obtain Board interpretation,* would be revised and redesignated as § 377.5, and a new § 377.4 would be added, to read:

§ 377.4 Certain authorizations with alternative termination dates.

Unless granted under section 401 of the Act, an authorization that by its terms is subject to termination alternatively at an uncertain date upon the happening of an event or the arrival of a specified date—

(a) Will not be considered a "license with reference to an activity of a continuing nature" within the meaning of 5 U.S.C. 558(c), if the event occurs before the specified date; and

(b) Ordinarily will be considered such a license, if the event does not occur before the specified date and that date is more than 180 days after the effective date of the authorization.

§ 377.5 Procedure to obtain Board interpretation.

(a) The Board will determine upon written request by the holder of a temporary authorization or by any competitively affected air carrier or foreign air carrier, or upon its own initiative, whether the temporary authorization is a "license with reference to an activity of a continuing nature" within the meaning of 5 U.S.C. 558(c).

(b) A written request for such a Board determination shall be filed at least 60 days before the deadline set forth in § 377.10 for a timely renewal application.

(c) The filing of such a written request shall not affect the timeliness requirements for renewal applications that are set forth in § 377.10 or any other applicable Board rule or order.

6. In § 377.10, paragraph (c) would be revised to read:

§ 377.10 Requirements for, and effect of, renewal applications.

* * * * *

(c) *Timeliness.* The application must be filed and served in compliance with applicable law and the Board's regulations at least 60 days before the expiration date of the outstanding temporary authorization, except that—

(1) For certificates issued under section 401 of the Act with a specified expiration date, the deadline is 180 days before the expiration date;

(2) For certificates issued under section 401 of the Act that terminate by their terms upon the happening of an event that could not be foreseen, the deadline is 30 days after the time that the carrier has notice that the event will occur or has occurred;

(3) For foreign air carrier permits issued under section 402 of the Act and exemptions issued under section 416 to non-U.S. citizens, the deadline is the expiration date itself;

(4) For renewal by substantially equivalent certificate authority of fixed term route authorizations granted by exemption and for interim extension of the exemption, pursuant to §§ 302.909 and 399.18 of this chapter, the deadline is 90 days before the expiration date; and

(5) Nothing in this part supersedes a requirement for earlier filing contained in any law, Board rule or order, or temporary authorization.

6. The Table of Contents would be amended accordingly.

(Secs. 204, 1001, Pub. L. 85-726, as amended, 72 Stat. 743, 788 (49 U.S.C. 1324, 1481; 5 U.S.C. 558, 559))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-27224 Filed 9-17-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 105

[Docket No. 78P-0207]

Special Dietary Foods Label Statements: Misleading Statements; Reduced Calorie Labeling for Bread; Revocation of Withdrawal of Proposed Rule; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Revocation of the withdrawal of a proposed rule on reduced calorie labeling for bread; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) extends the time for submission of comments concerning information on methods of analysis for determining the calorie content of bread. FDA is taking this action in response to a request for an extension of the comment period.

DATE: Comments by November 23, 1981.

ADDRESS: Send comments to: Dockets Management Branch (HFA-305), food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Taylor M. Quinn, Bureau of Foods (HFF-300), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1243.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 26, 1981 (46 FR 33053), FDA proposed revoking the withdrawal of the proposal to allow bread that has achieved a 25-percent reduction in calories to be labeled as "reduced calorie" bread. In addition, the agency reopened the comment period to seek comments on specific subjects, including information concerning methods of analysis for determining the calorie content of bread. The comment period ended August 25, 1981.

On August 25, 1981, the American Bakers Association (ABA) requested a 90-day extension of the comment period to permit the Approved Methods Committee of the American Association of Cereal Chemists time to complete the project of the proper method of analysis for determining the calorie content of bread.

The agency concludes that the ABA has presented sufficient grounds to support extension of the comment period.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403(a), 701(a), 52 Stat. 1041, 1047 as amended, 1055 (21 U.S.C. 321(n), 343(a), 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), the comment period is extended 90 days to November 23, 1981.

Dated: September 14, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-27190 Filed 9-15-81; 4:42 pm]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 18 and 240

[Notice No. 384]

Reduction of Regulatory Requirements on Producers of Volatile Fruit-Flavor Concentrates

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing this notice of proposed rulemaking to obtain comment from the public on minimizing the regulatory requirements on producers of volatile fruit-flavor concentrates. The regulations under consideration appear in 27 CFR Parts 18 and 240.

Due to the limited jeopardy to the revenue, absence of a pattern of abuse, and the small number of producers, ATF feels that continuation of historical regulatory requirements pertaining to concentrate producers would not be in the best interest of the industry or the Government. ATF also feels that careful liberalization of those regulatory requirements is not contrary to its duty to protect the revenue. Therefore, in an attempt to promote industry and Government efficiency and to relax regulatory requirements where possible, while still providing adequate protection to the revenue, ATF proposes the revisions described in this notice.

DATE: Comments must be received on or before December 17, 1981.

ADDRESS: Send comments to Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044, Notice No. 384.

FOR FURTHER INFORMATION CONTACT: E. J. Ference or J. R. Whitley, Research and Regulations Branch, 202-566-7626.

SUPPLEMENTARY INFORMATION: This notice proposes revision of the regulations in 27 CFR Part 18. Those regulations relate to the location, construction, arrangement, equipment, and qualification of plants for the manufacture of volatile fruit-flavor concentrate (essence); and to the production, removal, sale, transportation, and use of concentrate and of the fruit mash or juice from which concentrate is produced. In addition, this notice proposes conforming revisions to 27 CFR Part 240.

Executive Order 12291

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

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to: have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

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

Reasons for the Proposed Change

Due to the limited jeopardy to the revenue, absence of a pattern of abuse, and the small number of producers, ATF feels that continuation of historical regulatory requirements pertaining to concentrate producers would not be in the best interest of the industry or the Government. ATF also feels that careful liberalization of those regulatory requirements is not contrary to its duty to protect the revenue. Therefore, in an attempt to promote industry and Government efficiency and to relax regulatory requirements where possible, while still providing adequate protection to the revenue, ATF proposes the revisions described in this notice.

Existing Regulations

1. Qualification

Any person desiring to manufacture concentrate is required to submit an application to establish a concentrate plant. Information regarding proprietorship, premises, equipment, and production processes is required. Organizational documents, plats, and flow plans must also be submitted in support of the application.

2. Bonds

A concentrate plant proprietor is required to have a bond in sufficient sum to cover potential tax liability. A tax liability is brought into being when any concentrate, including mash or juice from which concentrate is produced, is made, used, sold, or transported in a manner contrary to law or regulation.

3. Operations

The production, use, and transfer of concentrate is controlled by a system of restrictions and reporting requirements. These regulatory requirements protect the revenue by providing ATF control over the operations involved in the manufacture and use of concentrate. Formulas and samples must be submitted for approval. Also, approval must be secured prior to transfer of concentrate to a bonded wine cellar.

Proposed Regulations

The proposed regulations provide simplified guidelines for the qualification and operation of concentrate plants. Numerous regulatory requirements have been diminished or deleted.

27 CFR Part 18 Changes

The major changes made to 27 CFR Part 18 are as follows:

Qualification. The requirement for submission of a plat and plan depicting the concentrate plant premises is deleted. The requirement for submission of a detailed plant description that includes major equipment, flow plans, and a statement of process is deleted. The requirement for listing all officers and directors is modified.

Changes in proprietorship, control, and name. Changes in proprietorship, control, and name must still be filed. However, the filing requirements have been made less stringent.

Changes in equipment and process. The requirement to file an amended application covering changes in plant equipment (except stills) or the production process is deleted.

Bonds. Bonds and consents of surety are no longer required.

Operations. Operational requirements are relaxed. Equipment need not be marked as to use, etc., unless required by the regional regulatory administrator. Submission of a sample of each high-proof concentrate to be produced is no longer required. However, a concentrate plant proprietor is required to submit a sample to the ATF National Laboratory for testing if he is unsure that the product is unfit for beverage use (nonpotable). The requirements that a proprietor notify the regional regulatory administrator of his suspension and resumption of operations is deleted.

Forms. Four ATF forms are eliminated, one ATF form is changed from a monthly to an annual report, and one form is no longer submitted by concentrate plant proprietors. ATF Forms 3873 (5520.1)—Application for Fruit-Flavor Concentrate and 3874 (5520.5)—Notice of Transfer of Fruit-Flavor Concentrate are eliminated. ATF Form 1694 (5110.70)—Concentrate Manufacturer's Bond is eliminated. ATF Form 1695 (5520.2)—Monthly Report of Concentrate Manufacturer is changed to an annual report. ATF Form 1533 (5000.18)—Consent of Surety is no longer required. ATF Form 27-G SUPPLEMENTAL (5520.4)—Application for Production of High Proof Concentrate is eliminated.

Records. Where feasible, commercial records have been substituted for prescribed forms. A commercial record of transfer for all products shipped from a concentrate plant has been substituted for most of the now required daily records. The record of transfer covering products shipped to a bonded wine cellar replaces the certificate that a bonded wine cellar proprietor secured from a concentrate plant proprietor.

27 CFR Part 240 Changes

Several conforming changes are made to 27 CFR Part 240 regarding the elimination of ATF Forms 3873 (5520.1) and 3874 (5520.5). The recording of losses in transmit or other discrepancies for concentrate received, which was formerly done on ATF Form 3874 (5520.5), is transferred to the record of material received and used.

General Information

The proposed regulations modernize and simplify the requirements for proprietors to qualify and operate concentrate plants.

ATF has attempted to minimize the regulatory requirements on producers of concentrate. This notice of proposed rulemaking proposes an amended 27 CFR Part 18 that contains 37 regulation sections. This is a decrease of 34 sections. As stated previously, four public use forms will be eliminated if this proposed rulemaking becomes a final rule. Proprietors of concentrate plants will benefit from this proposal, in that potentially costly administrative

burdens have been alleviated. Each major change, detailed in the PROPOSED REGULATIONS portion of this preamble, is modernizing, liberalizing, and simplifying in nature.

Questions

Specific comment and data is requested concerning the following questions:

1. Which remaining requirements could be further liberalized or deleted without jeopardy to the revenue or interruption of the compliance audit trail?
2. Should a bond requirement be retained? If so, in what amount? Why?
3. Should the annual report requirement in the proposed regulations be eliminated? Should the monthly report be reinstated? Why?
4. Should any of the other requirements which are changed or deleted in the proposed regulations be retained?
5. Will implementation of the proposed regulations result in a benefit or detriment to the concentrate industry or any other related industry?
6. Will implementation of the proposed regulations result in a benefit or detriment to the consumer?

Public Participation

Interested persons may participate in the rulemaking process by submitting written data, cost estimates, views, or objections regarding this proposal. Written communications should be identified by the notice number (Notice No. 384) and be submitted to the Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044. All written communications received on or before December 17, 1981, will be consider before action is taken on the final regulations.

Written communications will be available for public inspection at the ATF Reading Room, Room 4405, 12th and Pennsylvania Avenue, NW, Washington, DC, from 8:30 a.m. to 5:00 p.m.

Any interested person who desires an opportunity to comment orally at a public hearing on this notice of proposed rulemaking should submit his or her request in writing to the Director within the comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

Drafting Information

The principal authors of this document are E. J. Ference and J. R. Whitley of the Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

Authority and Issuance

Accordingly, under the authority in 26 U.S.C. 7805 (68A Stat. 917), the Director proposes the amendment of 27 CFR Part 18—Production of Volatile Fruit-Flavor Concentrates and 27 CFR Part 240—Wine as follows:

Section A

Part 18 is revised in its entirety as follows:

PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES

Subpart A—Scope

Sec.

18.1 Scope.
18.2 Applicability of law.
18.3 Unlawful operations.

Subpart B—Definitions

18.11 Meaning of terms.

Subpart C—Administrative and Miscellaneous Provisions

18.13 Alernate methods or procedures.
18.14 Emergency variations from requirements.
18.15 Right of entry and examination.
18.16 Forms prescribed.

Document Requirements

18.17 Retention of documents.
18.18 Execution under penalties of perjury.
18.19 Security.

Subpart D—Qualification

18.21 General.
18.22 Restrictions as to location and use.
18.23 Stills.

Application

18.24 Data for application.
18.25 Organizational documents.
18.26 Powers of attorney.
18.27 Additional requirements.

Changes After Original Establishment

18.31 General requirement.
18.32 Change in name.
18.33 Change in location.
18.34 Continuing partnerships.
18.35 Change in proprietorship.
18.36 Change in officers and directors.
18.37 Change in stockholders.
18.38 Permanent discontinuance.

Subpart E—Operations

18.51 Processing material.
18.52 Production of high-proof concentrate.
18.53 Use of concentrate.
18.54 Transfer of concentrate.
18.55 Label.
18.56 Return of concentrate.

Subpart F—Records and Reports

18.61 Records and reports.
18.62 Record of transfer.
18.63 Record of transfer to a bonded wine cellar.
18.64 Photographic copies of records.
18.65 Annual report.

Authority: August 16, 1954, Chapter 736, 68A Stat. 917 (26 U.S.C. 7805), unless otherwise noted.

Subpart A—Scope

§18.1 Scope.

The regulations in this part relate to the qualification and operation (including activities incident thereto) of plants for the manufacture of volatile fruit-flavor concentrate (essence). The regulations in this part apply to the several States of the United States and the District of Columbia.

§18.2 Applicability of law.

Except as specified in 26 U.S.C. 5511, the provisions of 26 U.S.C. Chapter 51 are not applicable to the manufacture, by any process which includes evaporations from the mash or juice of any fruit, of any volatile fruit-flavor concentrate if—

(a) The concentrate, and the mash or juice from which it is produced, contains no more alcohol than is reasonably unavoidable in the manufacture of the concentrate; and

(b) The concentrate is rendered unfit for use as a beverage before removal from the place of manufacture, or (in the case of concentrate which does not exceed 24 percent alcohol by volume) the concentrate is transferred to a bonded wine cellar for use in the production of natural wine; and

(c) The manufacturer of concentrate complies with all requirements for the protection of the revenue with respect to the production, removal, sale, transportation, and use of concentrate, and of the mash or juice from which it is produced, as may be prescribed by this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1392, as amended (26 U.S.C. 5511))

§ 18.3 Unlawful operations.

(a) A manufacturer of concentrate who violates any of the conditions exempting him from the provisions of 26 U.S.C. Chapter 51, is subject to the taxes and penalties otherwise applicable under that chapter in respect of such operations.

(b) Any person who sells, transports, or uses any concentrate or the mash or juice from which it is produced, in violation of 26 U.S.C. Chapter 51, or the regulations promulgated thereunder, is subject to all the provisions of that chapter pertaining to distilled spirits and wines, including those requiring the payment of the tax thereon.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001))

Subpart B—Definitions

§ 18.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Bonded wine cellar. Premises established under Part 240 of this chapter for the production, blending, cellar treatment, storage, bottling, or packaging of untaxpaid wine, and includes premises designated as "bonded winery"

Concentrate. Any volatile fruit-flavor concentrate (essence) produced by any process which includes evaporations from any fruit mash or juice.

Concentrate plant. An establishment qualified under this part for the production of concentrate.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the application, report, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this ——— (insert type of document, such as application or report), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct and complete."

Fold. The ratio of the volume of the fruit mash or juice to the volume of the concentrate produced from the fruit mash or juice. For example, one gallon of concentrate of 100-fold would be the product from 100 gallons of fruit mash or juice.

Fruit. All products commonly known and classified as fruit, berries, or grapes.

Fruit mash. Any unfermented mixture of juice, pulp, skins, and seeds prepared from fruit, berries, or grapes.

High-proof concentrate. For the purposes of this part, "high-proof concentrate" means a concentrate (essence), as defined in this section, that has an alcohol content of more than 24 percent by volume and is unfit for beverage use (nonpotable) because of its natural (without the addition of other substances) constituents.

Juice. The unfermented juice (concentrated or unconcentrated) of fruit, berries, or grapes, exclusive of pulp, skins, or seeds.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Processing material. The fruit mash or juice from which concentrate is produced.

Proprietor. A person qualified under this part to operate a concentrate plant.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Registry number. The number assigned to a concentrate plant by the regional regulatory administrator.

U.S.C. The United States Code.

Subpart C—Administrative and Miscellaneous Provisions

§ 18.13 Alternate methods or procedures.

(a) *General.* The proprietor, on specific approval by the Director, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate method or procedure, subject to stated conditions, when he finds that—

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by the specifically prescribed method or procedure, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this part.

(b) *Application.* Where the proprietor desires to employ an alternate method or procedure, he shall submit a written application to the regional regulatory administrator, for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons therefor. Alternate methods or procedures shall not be employed until the application has been approved by the Director. Authorization for any alternate method or procedure may be withdrawn whenever in the judgment of the Director the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the authorization.

§ 18.14 Emergency variations from requirements.

(a) *General.* The regional regulatory administrator may approve emergency variations from requirements specified in this part, where he finds that an emergency exists, the proposed variations are necessary, and the proposed variations—

(1) Will afford the security and protection to the revenue intended by the prescribed specifications;

(2) Will not hinder the effective administration of this part; and

(3) Will not be contrary to any provision of law.

Variations from requirements granted under this section are conditioned on compliance with the procedures, conditions, and limitations with respect thereto set forth in the approval of the application. Failure to comply in good faith with such procedures, conditions and limitations will automatically terminate the authority for such variations and the proprietor thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authorized for any variation may be withdrawn whenever in the judgment of the regional regulatory administrator the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation.

(b) *Application.* Where the proprietor desires to employ emergency variations, he shall submit a written application to do so to the regional regulatory administrator. The application must describe the proposed variations and set forth the reasons therefor. Variations will not be employed until the application has been approved, except when an emergency requires immediate action to correct a situation that is threatening to life or property. Such corrective action may then be taken concurrent with the filing of the application and notification of the regional regulatory administrator via telephone.

§ 18.15 Right of entry and examination.

Any ATF officer may at all times, as well by night as by day, enter any concentrate plant to make examination of the materials, equipment, and facilities thereon; and make such gauges

and inventories as he deems necessary. Whenever any ATF officer, having demanded admittance, and having declared his name and office, is not admitted into such premises by the proprietor or other person having charge thereof, he may at all times use such force as is necessary for him to gain entry to such premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1357 as amended, 1392, as amended (26 U.S.C. 5203, 5511))

§ 18.16 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) "Public Use Forms" (ATF Publication 1322.1) is a numerical listing of forms issued or used by the Bureau of Alcohol, Tobacco and Firearms. This publication is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(c) Requests for forms should be mailed to the ATF Distribution Center, 3800 South Four Mile Run Drive, Arlington, Virginia 22206.

Document Requirements

§.18.17 Retention of documents.

The proprietor shall maintain a file of all approved applications and other documents, on or convenient to the concentrate plant premises, available for inspection by ATF officers.

§ 18.18 Execution under penalties of perjury.

When a form or other document called for under this part is required to be executed under penalties of perjury, it shall be so executed, as defined in § 18.11, and shall be signed by an authorized person.

(68A Stat. 749 (26 U.S.C. 6065))

§ 18.19 Security.

The concentrate plant and equipment must be so constructed, arranged, equipped, and protected as to afford adequate protection to the revenue and facilitate inspection by ATF officers.

Subpart D—Qualification

§ 18.21 General.

A person shall not engage in the business of manufacturing concentrate unless he has made application for registration on Form 27-G (5520.3), to the regional regulatory administrator and has received approval thereof as provided in this part. All written statements, affidavits, and other documents submitted in support of the application or incorporated by reference shall be deemed to be a part thereof.

§ 18.22 Restrictions as to location and use.

(a) *Restrictions.* A concentrate plant may not be established in any dwelling house or on board any vessel or boat, or on any premises where any other business is conducted. The premises of a concentrate plant may be used only for the business stated in the approved application for registration.

(b) *Exceptions.* The regional regulatory administrator may authorize (1) the establishment of a concentrate plant on premises where other business is conducted, or (2) the use of the premises of a concentrate plant for other business. Any person desiring such authorization shall submit a written application to the regional regulatory administrator. The application must describe the other business by type, the relationship (if any) to the concentrate plant, and the premises to be used. A concentrate plant may not be established on premises where other business is conducted or used to conduct other business until the application is approved. The regional regulatory administrator may decline to approve the application or withdraw the authorization if the revenue is jeopardized or the effective administration of this part is hindered.

§ 18.23 Stills.

(a) Any stills set up on concentrate plant premises and intended for the production of concentrate must be registered with the regional regulatory administrator of the region in which located, as required by 27 CFR 196.45. The listing of stills in the application and the approval of the application shall constitute registration of such stills.

(b) The special occupational and commodity taxes imposed by 26 U.S.C. 5101 are not applicable in respect of any stills set up on concentrate plant premises and used in the production of concentrate pursuant to this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1355, as amended, 1392, as amended (26 U.S.C. 5179, 5511))

Application

§ 18.24 Data for application.

Applications on Form 27-G (5520.3) must include the following:

(a) Serial number;

(b) Name and principal business address of the applicant, and the location of the plant if different from the business address;

(c) Purpose for which filed;

(d) Information regarding proprietorship, supported by the organizational documents listed in § 18.25; and

(e) Description of each still and a statement of its maximum capacity.

Where any of the information required by this section is on file with the regional regulatory administrator, that information, if accurate and complete, may be incorporated by reference by the applicant and made a part of the application.

§ 18.22 Organizational documents.

The supporting information required by paragraph (d) of § 18.24 includes, as applicable:

(a) Extracts from the articles of incorporation or from the minutes of meetings of the board of directors, authorizing the incumbents of certain offices, or other persons, to sign for the corporation;

(b) Names and addresses of the officers and directors (Do not list officers and directors who have no responsibility in connection with the operation of the concentrate plant.);

(c) Names and addresses of the 10 persons having the largest ownership or other interest in the corporation or other legal entity, and the nature and amount of the stockholding or other interest of each, whether said interest appears in the name of the interested party or in the name of another for him; and

(d) In the case of an individual owner or a partnership, the name and address of every person interested in the concentrate plant, whether the interest appears in the name of the interested party or in the name of another for him.

§ 18.26 Powers of attorney.

The proprietor shall execute and file with the regional regulatory administrator a Form 1534(5000.8) for every person authorized to sign or to act on behalf of the proprietor. (Not required for persons whose authority is furnished in the application.)

§ 18.27 Additional requirements.

(a) The regional regulatory administrator, to protect the revenue, may require—

(1) Additional information in support of an application for registration;

(2) Marks on major equipment to show serial number, capacity, and use;

(3) Installation of meters, tanks, pipes, or other apparatus; and

(4) Installation of security devices.

(b) Any proprietor refusing or neglecting to comply with any requirement of this section shall not be permitted to operate.

Changes After Original Establishment

§ 18.31 General requirement.

Where there is a change with respect to the information shown in the application, the proprietor shall submit, within 30 days of the change (except as otherwise provided in this part), an amended application on Form 27–G(5520.3).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1392 as amended (26 U.S.C. 5511))

§ 18.32 Change in name.

The proprietor shall submit an amended application to cover any change in the individual, firm, or corporate name.

§ 18.33 Change in location.

The proprietor shall submit an amended application to cover a change in the location of a concentrate plant. Operation of the concentrate plant may not be commenced at the new location prior to approval of the amended application.

§ 18.34 Continuing partnerships.

If, under the laws of the particular State, the partnership is not immediately terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to operate the plant under the prior qualification of the partnership. If the surviving partner acquires the business on completion of the settlement of the partnership, he shall qualify in his own name from the date of acquisition, as provided in § 18.35. The rule set forth in this section also applies where there is more than one surviving partner.

§ 18.35 Change in proprietorship.

(a) *General.* If there is a change in the proprietorship of a concentrate plant, the outgoing proprietor shall comply with the requirements of § 18.38, and the successor shall, before commencing operations, file application and receive approval thereof in the same manner as a person qualifying as the proprietor of a new concentrate plant. Processing material, concentrate and other material may be transferred from an outgoing proprietor to a successor.

(b) *Fiduciary.* If the successor to the proprietorship of a concentrate plant is an administrator, executor, receiver, trustee, assignee, or other fiduciary, he shall comply with the provisions of paragraph (a) of this section. If the fiduciary was appointed by a court, the effective dates of the qualifying documents filed by the fiduciary shall be the effective date of the court order, or the date specified therein for him to assume control. If the fiduciary was not appointed by a court, the date of his assuming control shall coincide with the effective date of the qualifying documents filed by him.

§ 18.36 Change in officers and directors.

The proprietor shall submit an amended application to cover changes in the list of officers and directors furnished under the provisions of § 18.25.

§ 18.37 Change in stockholders.

The proprietor shall submit changes in the list of stockholders furnished under the provisions of § 18.25 annually on May 1. Where the sale or transfer of capital stock results in a change of control or management of the business, the proprietor shall comply with the provisions of § 18.35.

§ 18.38 Permanent discontinuance.

A proprietor who permanently discontinues the business of a concentrate manufacturer shall, after completion of operations, file an application on Form 27–G(5520.3) to cover such discontinuance, giving the date of the discontinuance.

Subpart E—Operations

§ 18.51 Processing material.

(a) *General.* A proprietor may produce processing material or receive processing material produced elsewhere. Fermented processing material may not be used in the manufacture of concentrate. Processing material may be used if it contains no more alcohol than is reasonably unavoidable, and must be used when produced, or as soon thereafter as practicable.

(b) *Record of processing material.* A proprietor shall maintain a record, by kind and quantity, of processing material used.

§ 18.52 Production of high-proof concentrate.

(a) *General.* High-proof concentrate may be produced in a concentrate plant. Concentrate having an alcohol content of more than 24 percent by volume that is fit for beverage use may not be produced in a concentrate plant.

(b) *Determination.* When a proprietor has doubt that a particular concentrate is a high-proof concentrate, he shall submit a written request to the Director for a determination of whether the concentrate is unfit for beverage use. Each request for a determination must include information as to kind, percent alcohol by volume, and fold of the concentrate. The request must be accompanied by a respresentative 8-ounce sample of the concentrate.

§ 18.53 Use of concentrate.

Concentrate may be used in the manufacture of any product made in the conduct of another business authorized to be conducted on concentrate plant premises under the provisions of § 18.22, if such product contains less than one-half of one percent of alcohol by volume.

§ 18.54 Transfer of concentrate.

(a) *Concentrate unfit for beverage use.* Concentrate (including high-proof concentrate and concentrate treated as provided in paragraph (c) of this section) unfit for beverage use may be transferred for any purpose authorized by law.

(b) *Concentrate fit for beverage use.* Concentrate fit for beverage use may be transferred only to a bonded wine cellar. If concentrate is rendered unfit for beverage use, it may be transferred as provided in paragraph (a) of this section.

(c) *Rendering concentrate unfit for beverage use.* Concentrate may be rendered unfit for beverage use by reducing the alcohol content to not more than 15 percent alcohol by volume (if the reduction does not result in a concentrate of less than 100 fold), and adding to each gallon thereof, in a quantity sufficient to render the concentrate unfit for beverage use, the following:

(1) Sucrose; or

(2) Concentrated fruit juice, of at least 70 Brix, made from the same kind of fruit as the concentrate; or

(3) Malic, citric, or tartaric acid.

(d) *Record of transfer.* The proprietor shall record transfers of concentrate (including high-proof concentrate) on a record of transfer as required in §§ 18.62 or 18.63.

§ 18.55 Label.

Each container of concentrate must have affixed thereto, before transfer, a label identifying the product and showing (a) the name of the proprietor; (b) the registry number of the plant; (c) the address of the plant; (d) the number of wine gallons; and (e) the percent alcohol by volume.

§ 18.56 Return of concentrate.

(a) *General.* The proprietor of a concentrate plant may accept the return of concentrate shipped by him.

(b) *Record of returned concentrate.* When the returned concentrate is received, the proprietor shall record the receipt, including a notation regarding any loss in transit or other discrepancy.

(c) *Report of returned concentrate.* The quantity of returned concentrate received shall be reported on an unused line on the annual report Form 1695(5520.2).

Subpart F—Records and Reports

§ 18.61 Records and reports.

(a) *General.* Each proprietor shall keep records and reports as required by this part. These records and reports must be maintained on or convenient to the concentrate plant and must be available for inspection by ATF officers during business hours. Records and reports must be retained by the proprietor for three years from the date they were prepared, or three years from the date of the last entry, whichever is later.

(b) *Records.* Each proprietor shall keep such records relating to or connected with the production, transfer, or return of concentrate and the juice or mash from which it is produced, as will (1) enable any ATF officer to verify operations and to ascertain whether there has been compliance with law and regulations, and (2) enable the proprietor to prepare Form 1695(5520.2). A proprietor need not prepare a specific record to meet the record requirements of this part. Any book, paper, invoice, bill of lading, or similar document that the proprietor prepares or receives for other purposes may be used, if all required information is shown.

(c) *Reports.* Each proprietor shall prepare and submit reports (including applications) as required by this part.

§ 18.62 Record of transfer.

When concentrate, juice, or fruit mash is transferred from the concentrate plant premises, the proprietor shall prepare a record of transfer. The record of transfer may consist of a commercial invoice, bill of lading, or any other similar document. The record of transfer must be prepared, in duplicate, by the proprietor. The proprietor shall forward the original of the record of transfer to the consignee and retain the copy as a record. Each record of transfer shall show the following information:

(a) Name, registry number, and address of the concentrate plant;

(b) Name and address of the consignee;

(c) Kind (by fruit from which produced) and description of product, e.g. grape concentrate, concentrated grape juice, unconcentrated grape juice, grape mash;

(d) Quantity (in wine gallons); and

(e) For concentrate, percent alcohol by volume.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1392, as amended (26 U.S.C. 5511))

§ 18.63 Record of transfer to a bonded wine cellar.

A proprietor transferring concentrate, juice, or fruit mash to a bonded wine cellar shall prepare a record of transfer as required by § 18.62 and enter the following additional information:

(a) Registry number of the bonded wine cellar;

(b) For each product manufactured from grapes or berries, variety of grape or berry;

(c) For juice and fruit mash, whether volatile fruit flavor has been removed and, if so, whether the identical volatile fruit flavor has been restored; and

(e) For concentrated juice, total solids content before and after concentration.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1392, as amended (26 U.S.C. 5511))

§ 18.64 Photographic copies of records.

Proprietors may record, copy, or reproduce records required by this part by any process which accurately reproduces or forms a durable medium for reproducing the original of records. Whenever records are reproduced under this section, the reproduced records must be preserved in conveniently accessible files, and provisions must be made for examining, viewing, and using the reproduced record the same as if it were the original record. The reproduced record will treated and considered for all purposes as though it were the original record. All provisions of law and regulation applicable to the original record are applicable to the reproduced record.

§ 18.65 Annual report.

An annual report, on Form 1695(5520.2), of concentrate plant operations must be prepared by each proprietor. The report shall be forwarded to the regional regulatory administrator not later than 15 days after the close of the calendar year for which rendered. When a proprietor permanently discontinues the business of manufacturing concentrate, the proprietor shall submit the annual report not later than 15 days after such discontinuance and mark the report "Final Report".

Section B

PART 240—WINE

Part 240 is amended as follows:

Paragraph 1, The Table of Contents is amended to remove the section headings for §§ 240.359a and 240.359b and to revise the section headings for §§ 240.357, 240.358 and 240.359. The revised headings read as follows:

Sec.

* * * * *

240.357 General.

240.358 Use of volatile fruit-flavor concentrate in cellar treatment of natural wine.

240.359 Use of juice (or must) from which volatile fruit flavor has been removed.

* * * * *

Paragraph 2. Section 240.353 is amended to add the phrase "from other than a concentrate plant", to remove the word "thereof", and to remove reference to a certificate for fruit juice received at a bonded wine cellar from a concentrate plant. As revised, § 240.353 reads as follows:

§ 240.353 Concentrated and unconcentrated fruit juice.

Concentrated fruit juice reduced with water to its original density, or to 22 degrees Brix, or to any degree of Brix between its original density and 22 degrees Brix, and unconcentrated fruit juice reduced with water to not less than 22 degrees Brix, shall be deemed to be juice for the purpose of standard wine production. Where concentrated fruit juice is received on bonded wine cellar premises from other than a concentrate plant, the proprietor shall procure from the producer a certificate stating the kind of fruit juice from which it was produced and the total solids content of such juice before and after concentration. Concentrated or unconcentrated fruit juice may be used in juice or wine made from the same kind of fruit for purposes of developing alcohol by fermentation or for sweetening as provided in this part. Concentrated fruit juice, or juice which has been concentrated and reconstituted, shall not be used in standard wine production if at any time it was concentrated to more than 80 degrees Brix.

[Sec. 201, Pub. L. 85-859, 72 Stat. 1383, as amended (26 U.S.C. 5382)]

Paragraph 3. Sections 240.357 through 240.359 are revised to reflect the elimination of Forms 3873(5520.1) and 3874(5520.5). As revised, these sections read as follows:

§ 240.357 General.

A proprietor may receive volatile fruit-flavor concentrate for use in the production of wine as provided in this part. A proprietor may, for any legitimate reason, return volatile fruit-flavor concentrate to the concentrate plant from which it was received, if the proprietor of the concentrate plant consents to the return. If volatile fruit-flavor concentrate is not used immediately, it must be stored on the bonded premises separately from essences and flavors which may be on hand for use in the production of special natural wine. The proprietor shall record the receipt or return of any volatile fruit-flavor concentrate in the manner required by § 240.915.

§ 240.358 Use of volatile fruit-flavor concentrate in cellar treatment of natural wine.

In the cellar treatment of natural wine, there may be added:

(a) To natural grape or berry wine of the winemaker's own production, volatile fruit-flavor concentrate produced from the same variety of grape or the same kind and variety of berry, or

(b) To natural fruit wine (other than grape or berry) of the winemaker's own production, volatile fruit-flavor concentrate produced from the same kind of fruit,

so long as the proportion of the volatile fruit-flavor concentrate to the wine does not exceed the proportion of the volatile fruit-flavor concentrate to the original juice (or must) from which it was produced.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

§ 240.359 Use of juice (or must) from which volatile fruit flavor has been removed.

Juice (or must) or concentrated juice processed at a concentrate plant is deemed to be pure juice (or must) or concentrated juice even though volatile fruit flavor has been removed if, at such concentrate plant or at the bonded wine cellar, there is added to such juice (or must) or concentrated juice, or (in the case of a bonded wine cellar) to wine of the winemaker's own production made therefrom, either the identical volatile fruit flavor removed or:

(a) In the case of natural grape or berry wine of the winemaker's own production, an equivalent quantity of volatile fruit-flavor concentrate derived from the same variety of grape or the same kind and variety of berry, or

(b) In the case of natural fruit wine (other than grape or berry wine) of the winemaker's own production, an equivalent quantity of volatile fruit-flavor concentrate derived from the same kind of fruit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

§ 240.359a [Removed]

§ 240.359b [Removed]

Paragraph 4. Sections 240.359a and 240.359b are removed because Forms 3873 (5520.1) and 3874 (5520.5) have been eliminated.

Paragraph 5. Section 240.915 is amended by revising the section to include the requirement (formerly in § 240.359a which has been removed) that a notation regarding losses in transit for volatile fruit-flavor concentrate be entered into the record required by this section. As revised, § 240.915 reads as follows:

§ 240.915 Separate record of materials received and used.

Each proprietor producing wine shall maintain a separate record showing the receipt and use or other disposition of basic winemaking materials, such as fruit, juice or concentrated juice. Where juice (or must) or concentrated juice is received from a concentrate plant, the record shall also show whether the identical volatile fruit flavor has been restored to such juice (or must) or concentrated juice, and further as to any such concentrated juice, its original density. If volatile fruit-flavor concentrate is received for use in the cellar treatment of natural wine, as authorized in Subpart O of this part, the record shall also show the receipt of such concentrate, a notation regarding any loss in transit or other discrepancy, the fold of such concentrate, the percent of alcohol by volume contained therein, and the use or other disposition of such concentrate. The record must show the date of receipt, the quantity received, the name and address of the person from whom received, and the date of use or other disposition of the materials. The invoices or commercial papers showing the receipt of materials will be retained in chronological order in support of the record. If materials are received off bonded premises and subsequently transferred to the bonded premises, the record will be maintained only with respect to materials received on the bonded premises and will show the date of transfer and quantity transferred, but the invoices or commercial papers covering the purchase of the materials will also be kept available for inspection. Where grapes (or other fruit) received on the bonded premises are used in producing juice to be stored for future use or for removal, the record will show the quantities of grapes used and juice produced. Where fruit or juice is used to produce concentrated juice the record will show the quantity of fruit or juice used and the quantity of concentrated juice produced. The record must also show the use or other disposition of the juice or concentrated juice produced. At the close of each month the materials account will be balanced and the totals reported on Form 5120.17(702).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381 (26 U.S.C. 5367))

Signed: August 12, 1981.

G. R. Dickerson,

Director.

Approved: August 31, 1981.

John P. Simpson,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 81-27214 Filed 9-17-81; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Parts 194, 250, and 251

[Notice No. 383]

Elimination of Certain Public Use Forms Prepared by Wholesale Dealers and Importers of Distilled Spirits

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is examining all Government public use forms to determine their continued need, possible duplication with other commercially prepared records, and reporting burden on regulated industries. The primary purpose of all public use forms it to provide standardized reporting of information necessary to the Federal Government. In order to minimize the reporting burden on the industry, ATF proposed to eliminate two forms required to be prepared and submitted by importers and wholesalers of distilled sprits. In addition, ATF proposes to change one daily recapitulation record to a monthly summary report totaling the receipts and dispositions of distilled spirits and eliminate the requirement for a consignee to serially number the receiving invoices. This monthly summary report would only be maintained and filed when required, in writing, by the regional regulatory administrator. Since other available commercial records contain the same information required by the two Government forms, ATF believes the elimination of these forms will not affect

its ability to trace and identify the flow of distilled spirits.

DATE: Comments must be received by December 17, 1981.

ADDRESS: Written comments must be addressed to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Norman P Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, 202-566-7626.

SUPPLEMENTARY INFORMATION:

Forms, Records and Reports

ATF proposes to eliminate the daily Wholesale Liquor Dealer's Report of Receipts-Wholesale Liquor Dealer's Report of Disposals, ATF Form 52A and 52B (5170.9); the Wholesale Liquor Dealer's Semiannual Report, ATF Form 338 (5110.48); and the daily recapitulation record of receipts and dispositions. In lieu of the ATF Form 338 (5110.48) and daily recapitulation record, the Bureau proposes a new monthly summary report, totaling the receipts and disposition of distilled spirits on a daily basis. The proposed monthly summary report would only be maintained and filed by a dealer when required, in writing, by the regional regulatory administrator. The maintenance of the monthly summary report on a daily basis could be changed to a less frequent interval by filing and receiving an approved application from the regional regulatory administrator.

The Bureau has determined that the filing of ATF Forms 52A and 52B (5170.9) and 338 (5110.48) is no longer necessary to law enforcement and protection of the revenue. The regulations in Part 194 (Liquor Dealers) of 27 CFR still require that wholesale dealers in distilled spirits keep commercial daily records of receipt and disposition. These daily records may be invoices, credit memorandums, memorandum receiving and shipping records and other forms of records approved by the Director.

Executive Order 12291

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

Paperwork Reduction Act of 1980

This proposed rule provides for the elimination of certain recordkeeping and reporting requirements for small businesses and other persons engaged in wholesaling and importing of liquors, therefore, this proposed rule would be subject to the requirements of 44 U.S.C. 3507 (44 U.S.C. 3501 et seq.)

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

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

Public Participation

ATF requests comments from all interested persons regarding its proposal to eliminate ATF Forms 52A and 52B (5170.5) and 338 (5110.48), pertaining to wholesale liquor dealers and importers of distilled spirits. In addition, comments are requested regarding the proposed monthly summary report of receipts and dispositions of distilled spirits in lieu of the currently required individual daily recapitulation record. All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for further action. Copies of this notice and of written comments are available for public inspection during normal business hours at the following location: ATF Reading Room, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should include a request for such in the comments submitted during the 90-day comment period. The Director, however reserves the right to determine, in light of all the circumstances, whether a public hearing should be held.

Drafting Information

The principal author of these regulations is Norman Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel from other offices of the Bureau and from the Treasury Department participated in developing this document, both in matters of substance and style.

Authority and Issuance

The proposed regulations are issued under the authority contained in 26 U.S.C. 7805 (68 Stat. 917).

For the reasons set out in the preamble, it is proposed that 27 CFR Parts 194, 250 and 251 be amended as follows:

PART 194—LIQUOR DEALERS

Paragraph 1. The table of sections in 27 CFR Part 194, Subpart O is amended by changing the title of § 194.230 from "Recapitulation Records" to "Monthly Summary Report"; removing §§ 194.231, 194.234 through 194.237 and 194.244; and redesignating §§ 194.232 as 194.231, 194.233 as 194.232, 194.238 through 194.243 as 194.233 through 194.238, respectively, and §§ 194.245 through 194.247 as 194.239 through 194.241, respectively. As amended, the table of sections for 27 CFR Part 194, Subpart O reads as follows:

Subpart O—Prescribed Records and Reports, and Posting of Signs

Wholesale Dealers' Records and Reports

Sec.

* * * * *

194.230 Monthly summary report.
194.231 Conversion between metric and U.S. units.
194.232 Discontinuance of business.
194.233 Requirements when wholesale dealer in liquors maintains a retail department.

Retail Dealer's Records

194.234 Requirements for retail dealers.

Files of Records and Reports

194.235 Time and manner of filing records of receipt and disposition.
194.236 Place of filing.

Period of Retention

194.237 Retention of records and files.
194.238 Photographic copies of records.

Posting of Signs

Sec.
194.239 Sign of wholesale dealer in liquors.
194.240 Display of false sign.
194.241 Other dealers; no sign required.
* * * * * *

§ 194.193 [Amended]

Par. 2. Section 194.193 is amended by changing the section reference to the last sentence from "§ 194.239" to "§ 194.234."

Par. 3. Section 194.221 is revised by including the requirement for wholesale dealers to maintain a monthly summary report in lieu of a daily recapitulation record; other minor editorial changes are included. As revised, § 194.221 reads as follows:

§ 194.221 General requirements as to distilled spirits.

Except as provided in §§ 194.223 and 194.224, every wholesale dealer in liquors shall keep daily records of the physical receipt and disposition of distilled spirits, as prescribed in §§ 194.225 and 194.226. When required in writing by the regional regulatory administrator, dealers shall also maintain and file a monthly summary report totaling the daily receipts and disposition of distilled spirits (including inventory gains and inventory losses and losses due to theft or casualty), as prescribed in § 194.230. The monthly summary report will separately record bottled spirits by wine gallons or liters, and spirits in packages will be recorded by proof gallons received and disposed of, daily, during the month.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

§ 194.222 [Amended]

Par. 4. Section 194.222 is amended by changing the section reference in the second sentence from "§ 194.242" to "§ 194.237."

Par. 5. Section 194.225 is amended by revising paragraphs (a)(2) and (b) and the authority citation to read as follows:

§ 194.225 Records of receipt.

(a) * * *
(1) * * *
(2) date of receipt (to include date of inventory for recorded gains),
* * * * *

(b) *Form of record.* The record prescribed by paragraph (a) of this section will consist of consignors' invoices (or, where such invoices are not available on the day the shipment is received, memorandum receiving records prepared on the day of receipt of distilled spirits, to include date of inventory for recorded gains), and credit memorandums covering distilled spirits returned to the dealer, which contain all required information.

(Sec. 210, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

Par. 6. Section 194.226 is amended by revising paragraphs (a)(2) and (b) and the authority citation to read as follows:

§ 194.226 Records of disposition.

(a) * * *
(1) * * *
(2) date of diposition (to include date of discovery in the case of casualty, theft or recorded inventory losses),
* * * * *

(b) *Form of record.* The record prescribed by paragraph (a) of this section shall consist of wholesale dealer's invoices (or, where such invoices are not available at the time the spirits are removed, memorandum shipping records prepared at the time of removal of the distilled spirits, to include date of discovery in the case of casualty, theft or recorded inventory losses) which contain all required information.
* * * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

Par. 7. Section 194.227 is amended by changing the section reference in the third sentence from "§ 194.240" to "194.235" and revising the authority citation to read as follows:

§ 194.227 Cancelled or corrected records.

* * * If a wholesale dealer in liquors voids and invoice for any reason, the "Government File Copy" prescribed in § 194.235 will be marked "Canceled" and be filed as provided in that section; all remaining copies of the voided invoices will be destroyed or similarly canceled and filed. If a new invoice is prepared, its serial number will be noted on all retained copies of the canceled invoice.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended (26 U.S.C. 5114))

Par. 8. Section 194.230 is revised to read as follows:

§ 194.230 Monthly summary report.

(a) *Requirement.* Every wholesale dealer in liquors shall, when required in writing by the regional regulatory administrator, maintain on a daily basis, a monthly summary report of the total quantities of all distilled spirits received and disposed of during the month (including the date of discovery for theft, casualty and inventory losses and inventory gains). Every wholesale dealer in liquors required to maintain the monthly summary report shall also file the original of this report with the regional regulatory administrator. If there were no receipts or disposals of distilled spirits during the month, the report will be marked "No Transactions During Month." This report will be filed not later than the 15th day of the month following the report period, and a copy retained by the dealer. Upon receipt of an application, in duplicate, the regional regulatory administrator may authorize a dealer to maintain the report less frequently until otherwise notified. The regional regulatory administrator's authorization will specify the intervals at which the posting will be accomplished, but not more frequently than monthly.

(b) *Form of report.* When required, the monthly summary report may be prepared in a format which most conveniently adapts itself to the dealer's other recordkeeping systems. In addition to any other information shown therein, the report will include:

(1) Daily totals of all distilled spirits received and disposed of, including, dispositions caused by inventory, causalty of theft losses and receipts affected by recorded gains in inventory;

(2) Daily totals of bottled spirits recorded separately by wine gallons, or liters;

(3) Daily totals of bulk spirits in packages recorded separately by proof gallons.

(c) *Declaration.* When required to be filed, the monthly summary report will bear the following declaration signed by the dealer or an authorized agent:

"I declare under the penalties of perjury that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete, and is supported by true, correct, and complete records which are available for inspection."

(Act of August 16, 1954, 68A Stat. 749 (26 U.S.C. 6065); Section 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

§ 194.231 [Removed and § 194.232 redesignated as § 194.231]

Par. 9. Section 194.231 is removed and § 194.232 is redesignated as § 194.231.

Par. 10. Section 194.233 is redesignated as § 194.232 and revised to read as follow:

§ 194.232 Discontinuance of business.

When a wholesale dealer in liquors, who is required under § 194.230 to maintain and file a monthly summary report, discontinues business, a monthly summary report marked "Final" shall be prepared covering transactions through the date of discontinuance.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended (26 U.S.C. 5114, 5555))

§§ 194.234, 194,235, 194,236 and 194.237 [Removed]

Par. 11. Sections 194.234, 194.235, 194.236 and 194.237 are removed.

Par. 12. Section 194.238 is redesignated as § 194.233 and revised to read as follows:

§ 194.233 Requirements when wholesale dealer in liquors maintains a retail department.

(a) When a wholesale dealer in liquors maintains a separate department on the premises for the retailing of distilled spirits, the dealer shall, except as provided in paragraph (b) of this section, at the time the distilled spirits are transferred to the retail department, prepare a record, as prescribed in § 194.226, showing such disposition. Where it is necessary in the filling of an order to transfer distilled spirits from the retail department to the wholesale department, a record showing receipt in the wholesale department will be prepared as prescribed in § 194.225, and the entire wholesale sale shall be entered on a record of disposition in the same manner as any other disposition from the wholesale department. The provisions of § 194.230 relating to the reporting and summarizing of daily receipts and dispositions of liquors are applicable to all transfers between wholesale and retail departments. The retail department need not be maintained in a separate room, or be partitioned off from the wholesale department, but the retail department will in fact be separate from the wholesale department.

(b) Where retail sales of distilled spirits normally represent 90 percent or more of the volume of distilled spirits sold, the dealer may, in lieu of the records required by § 194.225, keep records as prescribed in § 194.234 for all retail dealers in liquors, and all distilled spirits at the premises may be considered as having been received in the dealer's retail department. In addition, as prescribed by § 194.226, the dealer shall prepare records of disposition on all distilled spirits sold at wholesale, and shall, when required by the regional regulatory administrator, prepare and file a summary of such spirits, as prescribed in § 194.230. Distilled spirits which have been considered as having been received in the retail department, and which are involved in a wholesale transaction, will be considered as having been transferred to the wholesale department at the time of sale. The monthly summary report, when required by § 194.230, will be submitted even if there have been no wholesale transactions in distilled spirits. The dealer's wholesale department need not be maintained in a separate room or be partitioned off from the retail department.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1345, as amended 1395, as amended, (26 U.S.C. 5114, 5124, 5555))

§§ 194.239 and 194.240 [Redesignated as §§ 194.234 and 194.235]

Par. 13. Sections 194.239 and 194.240 are redesignated as §§ 194.234 and 194.235, respectively.

Par. 14. Section 194.241 is redesignated as § 194.236 and amended by revising and dividing the first sentence into two sentences and revising the authority citation to read as follows:

§ 194.236 Place of filing.

Prescribed records of receipt and disposition and monthly summary reports required by § 194.230 will be maintained in chronological order in separate files at the premises where the distilled spirits are received and sent out. The regional regulatory administrator may, * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended (26 U.S.C. 5114))

§§ 194.242 and 194.243 [Redesignated as §§ 194.237 and 194.238]

Par. 15. Sections 194.242 and 194.243 are redesignated as §§ 194.237 and 194.238, respectively.

§ 194.244 [Removed]

Par. 16. Section 194.244 and the undesignated center headnote preceding this section is removed.

§§ 194.245 through 194.247 [Redesignated as §§ 194.239 through 194.241]

Par. 17 Sections 194.245 through 194.247 are redesignated as §§ 194.239 through 194.241, respectively.

§ 194.271 [Amended]

Par. 18. Section 194.271, paragraph (c), is amended by changing the section references in the last sentence from "§§ 194.241 and 194.242" to "§§ 194.236 and 194.237 "

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

§§ 250.165 and 250.274 [Removed]

Par. 19. The table of sections in 27 CFR Part 250, Subparts H and N is amended by removing §§ 250.165 and 250.274, respectively. The undesignated center headnote, "Procurement of Forms", preceding these sections is also removed.

Par. 20. Sections 250.165 and 250.274 are removed along with the undesignated center headnote preceding these sections.

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES AND BEER

§ 251.135 [Removed]

Par. 21. The table of sections in 27 CFR Part 251, Subpart I is amended by removing § 251.135.

Par. 22. Section 251.135 is removed.

Signed: August 3, 1981.

G. R. Dickerson,

Director.

Approved: August 26, 1981.

John P. Simpson,

Acting Assistant Secretary, (Enforcement and Operations).

[FR Doc. 81-27140 Filed 9-17-81; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 904, 916, and 925

Cancellation of Public Hearings on Modified Portions of the Arkansas, Kansas, and Missouri Permanent Regulatory Programs

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

ACTION: Cancellation of public hearings.

SUMMARY: OSM is announcing cancellation of public hearings on the adequacy of program amendments submitted to satisfy conditions imposed by the Secretary of the Interior on the approval of the Arkansas permanent regulatory program, the Kansas permament regulatory program, and the Missouri permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Because no one expressed an interest in attending any of the hearings by September 9, 1981, the hearings have been cancelled.

This notice cancels the public hearings but does not alter the times and locations that the Arkansas, Kansas and Missouri programs and proposed amendments are available for public inspection, or the comment period during which interested persons may submit written comments on the proposed program elements.

DATES: The following hearings are cancelled.

The public hearing on the proposed modifications to the Arkansas program, September 21, 1981, from 7:00 p.m. to 9:00 p.m.

The public hearing on the proposed modifications to the Kansas program, September 23, 1981, from 7:00 p.m. to 9:00 p.m.

The public hearing on the proposed modifications to the Missouri program, September 22, 1981, from 7:00 p.m. to 9:00 p.m.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Assistant Regional Director, Division of State and Federal Programs, 818 Grand Avenue, Scarritt Building, Kansas City, Missouri 64106, Telephone: (816) 374-3920.

SUPPLEMETARY INFORMATION: On August 25, 1981, notice of opportunity for public hearing for the Arkansas program, Kansas program, and Missouri program was published in the Federal Register (46 FR 42873-42876).

The notices stated that any person interested in making an oral or written presentation at any of the hearings should contact Richard Rieke by September 9, 1981, and that if no person contacted Mr. Rieke to express an interest in participating in the hearings by the above date, the hearing would be cancelled.

Because no one expressed an interest in attending any of the hearings by September 9, 1981, the hearings have been cancelled.

While there will be no public hearings, interested persons may still submit written comments on the proposed program elements. Written comments must be received on or before 4:00 p.m. on September 25, 1981, to be considered in the Secretary's decision on whether the proposed amendments satisfy the conditions imposed on the approval of these programs.

Written comments should be mailed or hand-delivered to: Raymond L. Lowrie, Regional Director, Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Dated: September 16, 1981.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 81-27371 Filed 9-17-81; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL 1929-3]

Approval and Promulgation of Implementation Plans; Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This document proposes to approve new rules relating to excess air pollution emissions during equipment malfunctions as part of the Iowa State Implementation Plan. The state plan, required by Section 110(a)(2) of the Clean Air Act, describes what will be done to meet the air quality standards in Iowa. If these state regulations are federally approved they will become enforceable by the Federal government as well as by the state.

DATE: Comments should be received by November 17, 1981.

ADDRESSES: Comments should be sent to Daniel J. Wheeler, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. The state submission is available at the above address and at the Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa; and the Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler at 816-374-3791.

SUPPLEMENTARY INFORMATION: Chapter 5 of the Iowa Air Quality rules contains requirements that apply to sources of air pollution when air pollution control equipment breaks down. Such incidents can cause "excess emissions", which are pollutant emissions greater than those allowed by state rules, and are generally regulated by what are called "malfunction" rules. Also covered by Chapter 5 are other causes of excess emissions such as startup and shutdown of the source, breakdown or malfunction of process equipment and cleaning of equipment.

The previously approved Chapter 5 provided for automatic exemptions for certain excess emissions if certain procedures were followed. This was deemed unapprovable because it was inconsistent with EPA policy on excess emission regulations and the federal promulgation for the Kennecott Copper Corporation smelter located in Salt Lake City, Utah (see 42 FR 21472, April 27, 1977) which prohibits exemptions for excess emissions. That promulgation requires that all incidents of excess emissions be treated as violations of emission limits and that there be no automatic exemptions from this requirement. Once a violation has occurred the enforcement agency may decide whether to prosecute the violation or refrain from action as a matter of "enforcement discretion." The violating source is allowed to submit information to aid in making this decision.

On December 24, 1980, the State submitted a complete revision of Chapter 5. These new rules are designed to limit excess emissions and to place the burden of proof on the source owner for demonstrating that the excess emissions were due a malfunction and not to poor maintenance or other preventable cause. This submission also contains several new definitions (Chapter 1 of the Iowa Code) that relate to Chapter 5. The major one is "malfunction" which is defined as any sudden and unavoidable failure of control or process equipment to operate in normal manner. The state does not consider preventable upsets to be malfunctions.

The new Chapter 5 generally requires sources with excess emissions to report those incidents and to end them by either repairing the malfunctioning equipment or by shutting down the source of the emissions. Reporting an incident does not excuse the violation but the source is allowed to submit information on the incident for the state's use in determining whether the violation should be prosecuted or whether it should be excused as a matter of "enforcement discretion." The purpose of submitting this information is to demonstrate that the incident was due to a true malfunction and not to a cause that could have reasonably been prevented. The state rule does not excuse violations due to malfunctions but the inference is that the state will exercise its discretion in not enforcing against this type of violation.

Chapter 5 defines all excess emissions as violations unless they result from startup, shutdown or cleaning of control equipment. Startup and shutdown are exempt only if accomplished expeditiously and in a manner consistent with minimizing emissions. Cleaning of control equipment is limited to six minutes in any sixty. Excess emissions caused by startup or shutdown that is not accomplished expeditiously or for longer than six minutes while cleaning control equipment, or for any other reason such as cleaning of process equipment or

malfunction of control or process equipment, are considered violations.

With respect to the exemption for startup, shutdown and cleaning, the state submission letter notes that there are many sources in Iowa that cannot accomplish a startup without violating the applicable standard for some short period of time. Since it is the intention of the state that those brief violations would not be subject to enforcement action, it has provided an exemption that amounts to an advance exercise of enforcement discretion, if these actions are accomplished expeditiously and in a manner consistent with good practice for minimizing emissions. If these actions are not so accomplished then action can be taken against the violating source.

The state regulation does not clearly address the issue of allocation of the burden of proof where a source seeks an exemption from excess emissions (other than emissions attributable to malfunctions, which must be demonstrated by the source). The burden of establishing excess emissions rests with the regulatory agency, but once excess emissions are established, EPA interprets the state regulation as providing that the regulatory agency will grant an exemption for the emissions only where the source demonstrates that the emissions were attributable to startup, shutdown, or cleaning, and that the excess emissions could not reasonably have been prevented or reduced under such circumstances. EPA solicits comments on whether this interpretation of the regulation is correct, and whether the exemption is therefore consistent with EPA's malfunction policy.

Chapter 5 also provides authority for the state to require sources to develop maintenance plans for their equipment. Such plans are intended to aid sources to comply with emission limits and their existence does not protect sources against enforcement when they violate applicable limits.

This revision to Chapter 5 constitutes a proposed revision to the Iowa SIP. The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether or not the revision meets the requirements of Section 110 of the Clean Air Act and of 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Section 110 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709, January 27, 1981). This rule, if promulgated, constitutes a SIP approval under Section 110 within the terms of the January 27 certification. This action would only approve state actions. It imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major" because it imposes no new regulatory requirements. Hence it is unlikly to have an annual effect on the economy of $100 million or more, or to have other significant adverse impacts on the national economy.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

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

Dated: August 7, 1981.

David A. Wagoner,

Acting Regional Administrator.

[FR Doc. 81-27222 Filed 9-17-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-631; RM-3908]

FM Broadcast Station in Camden, Ala.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 272A to Camden, Alabama, in response to a petition filed by Harry A. Taylor. The assignment would provide Camden with a first FM service.

DATES: Comments must be filed on or before November 16, 1981, and reply comments must be filed on or before December 8, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20054.

FOR FURTHER INFORMATION CONTACT: Nancy V Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of §73.202(b), Table of Assignments, FM Broadcast Stations. (Camden, Alabama); BC Docket No. 81-631; RM-3908, Notice of proposed rule making.

Adopted: September 3, 1981.

Released: September 17, 1981.

By the Acting Chief, Policy and Rules Division:

1. Harry A. Taylor ("petitioner") has filed a petition for rule making[1] seeking assignment of Channel 272A to Camden, Alabama, as that community's first FM assignment. The assignment can be made in compliance with the minimum distance separation requirements of §73.207 of the Commission's Rules, and petitioner states that he will apply for the channel, if assigned. No responses to the petition have been filed.

2. Camden (population 1,742),[2] the seat of Wilcox County (population 16,303), is located in south central Alabama, approximately 100 kilometers (62 miles) southwest of Montgomery. It is currently served locally by full-time AM Station WCOX.

3. Petitioner states that Camden has a weekly newspaper available to the residents, and that its principal industries are comprised of farming, logging and a relatively few resorts. Additionally, it advises that the community has its own stores, schools, banks, savings and loan association, and several civic and social organizations. Petitioner has submitted sufficient demographic data to demonstrate the need for a first FM assignment to Camden.

4. Petitioner submitted a study indicating that the proposed assignment of Channel 272A to Camden, Alabama, would not create any unacceptable preclusion. However, we need not consider the preclusive impact for a request for a first Class A channel allocation. *See, Policy Statement to Govern Requests for Additional Assignments,* 8 FCC 2d 79 (1967).

5. In view of the fact that the proposed FM channel assignment would provide Camden with a first FM and second nightime aural broadcast service, the Commission believes it appropriate to amend the FM Table of Assignments, §73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Camden, Ala		272A

6. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE:

[1] Public Notice of the petition was given on June 11, 1981, Report No. 1291.

[2] Population figures are extracted from the 1970 U.S. Census.

A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before November 16, 1981, and reply comments on or before December 8, 1981.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-27278 Filed 9-17-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-629; RM-3900]

FM Broadcast Station in Downs, Kans.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 231 to Downs, Kansas, as that community's first FM assignment. This action is in response to a petition filed by Ernest McRae and Jerry T. Venable.

DATES: Comments must be filed on or before November 16, 1981, and reply comments on or before December 8, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Downs, Kansas); BC Docket No. 81-629, RM-3900; notice of proposed rule making.

Adopted: September 3, 1981.

Released: September 16, 1981.

By the Acting Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making[1] was filed by Ernest McRae and Jerry T. Venable ("petitioners") proposing the assignment of FM Channel 231 to Downs, Kansas, as that community's first FM assignment.[2] No comments opposing the assignment have been received.

(b) A site restriction of approximately 2.3 miles northwest is required due to Station KYEZ (Channel 229) in Salina, Kansas.

(c) Petitioners have stated their intent to apply for the channel, if assigned.

2. *Demographic Data:*

(a) *Location:* Downs is located in Osborne County approximately 224 kilometers (140 miles) northwest of Wichita, Kansas.

(b) *Population:* Downs—1,324;[3] Osborne County—5,959.

(c) *Present Aural Service:* Downs does not have any local broadcast service.

3. *Preclusion Considerations:* The assignment of Channel 231 to Downs would cause preclusion on Channel 228A within 65 miles, Channel 230 within 150 miles, Channel 231 within 180 miles, and Channel 232A within 105 miles. Petitioners list alternative channels for all precluded communities of 500 or more population.

4. Petitioners state that the assignment would provide a first FM service for 19,021 persons in an area of 7,621 square kilometers (2,977 square miles) and a second FM service to 8,621 persons in an area of 3,724 square kilometers (1,455 square miles). Further, the assignment will provide a first aural service for 15,809 persons in an area of 5,880 square kilometers (2,297 square miles), and a second aural service for 4,191 persons in

[1] Public Notice of the petition was given on June 4, 1981, Report No. 1290.

[2] Petitioners had previously requested the assignment of FM Channel 231 to Smith Center, Kansas (BC Docket No. 80-518). This proceeding has been dismissed at their request.

[3] Population figures are taken from the 1980 U.S. Census.

an area of 2,375 square kilometers (928 square miles).

5. In light of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Downs, Kans		231

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7 Interested parties may file comments on or before November 16, 1981, and reply comments on or before December 8, 1981.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-27277 Filed 9-17-81; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-627; RM-3911]

FM Broadcast Station in Augusta and Gardiner, Maine; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of Class C FM Channel 222 for Channel 221A at Augusta, Maine, and modification of the Class A license to specify operation on the Class B channel, in response to a petition filed by Sterling Broadcasting Corporation. In addition, we are proposing the reassignment of Channel 282 from Augusta to Gardiner, Maine, to reflect its actual use there.

DATES: Comments must be filed on or before November 16, 1981, and reply comments on or before December 8, 1981.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Augusta and Gardiner, Maine); BC Docket No. 81-627, RM-3911; notice of proposed rule making.

Adopted: September 3, 1981.

Released: September 17, 1981.

By the Acting Chief, Policy and Rules Division:

1. The Commission herein considers a petition for rule making [1] filed by Sterling Broadcasting Corporation [2] ("petitioner"), which seeks to substitute Class B Channel 222 for Channel 221A at Augusta, Maine, and modify its license on Channel 221A for Station WSCL to specify operation on the Class B channel. Although Augusta is assigned Channel 282, that channel is presently being used at Gardiner, Maine (under § 73.203(b), of the Commission's Rules), and we are proposing to reassign the channel to reflect its actual use in that

[1] Public Notice of the petition was given on June 11, 1981, Report No. 1291.

[2] Sterling Broadcasting Corporation is the licensee of AM Station WRDO and FM Station WSCL.

community. Petitioner states that it will apply for the Class B channel, if assigned. No oppositions to the proposal were received.

2. Augusta (population 21,819),[3] in Kennebec County (population 109,889), is located approximately 90 kilometers (57 miles) northeast of Portland, Maine. It is served locally by full-time AM Stations WFAU and WRDO, FM Station WFAU (Channel 267) and WSCL (Channel 221A), licensed to the petitioner.

3. Petitioner states that Augusta, the capital of Maine, is a unique city, inasmuch as it occupies both sides of the Kennebec River, with most industry and businesses on the west bank. According to the petitioner, Augusta is the trading center for more than 100,000 city and suburban residents, with tourism being a substantial economic factor. Petitioner claims that Augusta's population has increased to an estimated 22,300 persons in 1981. Additionally, the petitioner states that the proposed Class B facility would eliminate the current intermixture of Class A and Class B channels that exists in Augusta.

4. The study submitted by the petitioner shows that new preclusion will occur on Channels 223 and 224A as a result of the proposed assignment of Channel 222 to Augusta. There are no communities in the Channel 224A precluded area, and one community, Stonington, Maine (population 1, 291), in the Channel 223 precluded area. Channel 249A is available for assignment to Stonington. Since petitioner did not submit a *Roanoke Rapids/Anamosa* study and Augusta has a Class B station, we are assuming that no first FM service will be provided under this proposal.

5. Petitioner has shown a need for the Class B assignment, inasmuch as it would remove the intermixture that presently exists at Augusta. We are also proposing to reassign Channel 282 from Augusta to Gardiner, Maine, to reflect its actual use there. Comments are invited on the proposal to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to the following communities:

City	Channel No.	
	Present	Proposed
Augusta, Maine	221A, 267, 282	222, 267
Gardiner, Maine		282

6. Since Gardiner, Maine, is located within 420 kilometers (250 miles) of the U.S.-Canadian border, Canadian concurrence must be obtained.

7 The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before November 16, 1981, and reply comments on or before December 8, 1981.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration of court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* To which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-27276 Filed 9-17-81; 8:45 am]
BILLING CODE 6712-01-M

[3] Population figures are taken from the 1980 U.S. Census.

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47 CFR Part 73

[BC Docket No. 81-628; RM-3888]

FM Broadcast Station in Mountain View, Mo.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of FM Channel 244A to Mountain View, Missouri, as its first FM channel, in response to a petition filed by R. C. Trieman.

DATES: Comments must be filed on or before November 16, 1981, and reply comments must be filed on or before December 8, 1981.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Mountain View, Missiouri); BC Docket No. 81-628, RM-3888; notice of proposed rule making.

Adopted: September 3, 1981.
Released: September 16, 1981.

By the Acting Chief, Policy and Rules Division:

1. The Commission herein considers a petition for rule making [1] filed by R. C. Trieman ("petitioner"), proposing the assignment of Channel 244A to Mountain View, Missiouri, as its first FM assignment. Petitioner states that he will apply for the channel, if assigned. No oppositions to the proposal were received.

2. Mountain View (population 1,664) [2] in Howell County (population 28,807) is located approximately 144 kilometers (90 miles) east of Springfield, Missouri. It has no local broadcast service.

3. Petitioner asserts that Mountain View, though primarily an agricultural area, is economically supported by textile manufacturing, local industry and tourism. He claims that the population has increased from 1,320 in 1970 to 1,655 in 1980. According to the petitioner, the proposed station would fill an important community need for coverage of general events, special news items, sports and the weather.

4. In view of the fact that the proposed FM assignment could provide a first local aural broadcast service to Mountain View, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to Mountain View, Missouri, as follows:

City	Channel No.	
	Present	Proposed
Mountain View, Mo		244A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before November 16, 1981, and reply comments on or before December 8, 1981.

7 The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-27274 Filed 9-17-81; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on April 28, 1981, Report No. 1283.

[2] Population figures are taken from the 1980 U.S. Census.

47 CFR Part 73

[BC Docket No. 81-630; RM-3902]

FM Broadcast Station in Billings, Mont.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 279 to Billings, Montana, in response to a petition filed by Northern Sun Corporation. The assignment would provide Billings with a fifth commercial FM allocation.

DATES: Comments must be filed on or before November 16, 1981, and reply comments must be filed on or before December 8, 1981.

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

FOR FURTHER INFORMATION CONTACT: Nancy V Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Billings, Montana); BC Docket No. 81-630, RM-3902; notice of proposed rule making.

Adopted: September 3, 1981.

Released: September 15, 1981.

By the Acting Chief, Policy and Rules Division:

1. Northern Sun Corporation ("petitioner"), has filed a petition for rulemaking [1] seeking assignment of Channel 279 to Billings, Montana, as that community's fifth commercial FM allocation. Petitioner states that it will apply for the channel, if assigned to Billings. No responses to the petition have been filed, and the channel can be assigned in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

2. Billings (population 66,798),[2] the seat of Yellowstone County (population 108,035), is located approximately 288 kilometers (180 miles) southeast of Helena, Montana. It is currently served locally by three fulltime AM stations (KBMY, KGHL and KOOK), two daytime-only AM stations (KOYN and KURL), two noncommercial educational FM stations (KEMC and KRER), and four commercial FM stations (KIDX, Channel 253, KOOK, Channel 275; KKOZ Channel 246; and KYYA, Channel 227). With the exception of Station KYYA, the remaining commercial FM stations are commonly owned by three of the AM facilities licensed to Billings.

3. Petitioner states that Billings is the wholesale, retail, medical and transportation center for eastern Montana and northern Wyoming. It alleges that its 1980 population increased 10.9 % over the past decade, while that of Yellowstone County increased 23% during the same period. Petitioner anticipates that this growth will continue due largely to its close proximity to various large energy-related projects in the area, which, according to petitioner, has provided a dramatic increase in employment in recent years. In addition to the aural facilities licensed to the community, communications services are provided by three television stations, a cable system and one daily newspaper.

4. If Class C FM Channel 279 is assigned to Billings, preclusion will occur on Channels 278 within 150 miles, 279 within 180 miles, 280A within 105 miles, 281 within 65 miles, and 282 within 65 miles. Petitioner states that, with the exception of Laurel, Montana, a suburb of Billings, all of the affected communities containing a population in excess of 2,500 persons presently have FM channels allocated to them.

5. As petitioner recognizes, the request for a fifth commercial FM assignment to Billings exceeds the population guidelines which limits a city of its size to an allotment of four FM channels. However, as the Commission has stated on numerous occasions, the population guidelines are not applied inflexibly, and assignments exceeding the guidelines have been made when the preclusive impact of the assignment is considered insignificant. With the exception noted above, channels are presently assigned to the precluded communities. Petitioner should state whether any FM channel is available at Laurel. *See, Popular Bluff, Missouri*, BC Docket No. 78-188, 45 Fed. Reg. 21636, published April 2, 1980; *North Platte, Nebraska*, BC Docket No. 79-114, 44 Fed. Reg. 67666, published November 27, 1979; and *Waycross, Georgia*, BC Docket No. 79-149, 45 Fed. Reg. 25806, published April 16, 1980.

6. Since Billings is located within 400 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 279 to that community requires coordination with the Canadian Government.

7 In view of the fact that the proposed FM channel assignment would provide Billings with a fifth commercial FM service, which could provide an additional broadcast voice in the community, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, as follows:

City	Channel No.	
	Present	Proposed
Billings, Mont.	227, 246, 253, and 275.	227, 246, 253, 275, and 279

8. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before November 16, 1981, and reply comments on or before December 8, 1981.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Nancy Joyner, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

[1] Public Notice of the petition was given on June 4, 1981, Report No. 1290.

[2] Population figures are extracted from the 1980 U.S. Census.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-27275 Filed 9-17-81; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Chapter I

Back Bay National Wildlife Refuge, Virginia Petition for Rulemaking and Request for Comments

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Petition for rulemaking and request for comments.

SUMMARY: The Fish and Wildlife Service has received a petition for rulemaking from Messrs. Ronald A. Zumbrun, Raymond M. Momboisse, and Sam Kazman on behalf of the Virginia Wildlife Federation and the Pacific Legal Foundation to extend access privileges across the Back Bay National Wildlife Refuge to qualified part-time residents of the Outer Banks. This notice publishes the petition and seeks comments on the suggested regulatory revision.

DATES: Written comments will be accepted until November 17, 1981.

ADDRESS: Comments should be sent to William C. Reffalt, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: William C. Reffalt, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, 18th and C Streets, NW, Washington, D.C. 20240 (202) 343-4791.

SUPPLEMENTARY INFORMATION: The primary author of this notice is Ronald L. Fowler, Division of Refugee Management, U.S. Fish and Wildlife Service, Department of Interior, Washington, D.C. 20240, Phone 202-343-4305. This petition is being considered in accordance with the provisions of 43 CFR 14.6. In accordance with 43 CFR 14.10(d), notice of this petition is being published in the Federal Register to aid in its consideration.

On May 28, 1980, (45 FR 35823), regulations limiting vehicular access across the Back Bay National Wildlife Refuge were published. On August 7, 1980, (45 FR 52391), the regulations were amended to incorporate the provisions of Pub. L. 96-315 (94 Stat. 957) which defined the term "eligible applicant" to include all full-time residents who can furnish adequate proof of residence commencing prior to December 31, 1979, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina. That provision of law was intended to enlarge the scope of the Service's Back Bay access regulations. Thus, any time the Service issues regulations governing access through the refuge, at least those persons furnishing adequate proof of residence commencing prior to December 21, 1979, shall be granted access regardless of whatever other class of property owners is granted access.

The petition requests that the regulations currently in effect be amended as follows:

1. Change the boundary line in § 26.34(a)(1) to include Whalehead;

2. Renumber § 26.34(a)(2) to (a)(3), and add the following new section (a)(2):

Owners of improved property as of September 15, 1981, in the area described in subsection (a)(1). Only one permit will be issued per family; and

3. Insert the following after the first sentence of section 26.34(c):

Permitted vehicles of all other improved property owners shall be limited to sixty one-way trips per year.

The petition also includes five (5) attachments which are available from the Division of Refuge Management at the above address. The petition follows:

Dated: September 15, 1981.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Petition to the Secretary of the Interior To Allow Part-Time Residential Access Through Back Bay National Wildlife Refuge

Introduction

The Virginia Wildlife Federation (VWF) and Pacific Legal Foundation (PLF) hereby petition the Secretary of the Interior to allow limited access through the Back Bay Refuge for part-time residents of the Outer Banks. This petition is filed pursuant to 5 U.S.C. 553(e), as implemented by the Department of the Interior in 43 CFR 14.6 (1980).

The access which these residents had previously enjoyed was terminated by the Fish and Wildlife Service (FWS) on January 1, 1980. FWS, *Interim Rule,* 44 FR 72161 (Dec. 13, 1979). Requests to reinstate this access were denied in May 1980. FWS *Final Rule,* 45 FR 35823 (May 28, 1980). For the reasons set forth below, we submit that this decision should be reconsidered.

Identity of Petitioners

VWF, founded in 1939, is the oldest and largest environmental organization in Virginia. It has over 17,000 members and has been involved in numerous issues dealing with the protection of

natural resources. VWF supports the concept of multiple use for public lands when those uses will not degrade the resource. VWF members have enjoyed the Back Bay Refuge for many years, and a number of them live on the Outer Banks.

PLF is a nonprofit public interest organization which has participated in past proceedings involving Back Bay access. PLF represented an Outer Banks residents association as amicus curiae in *National Audubon Society v. Kleppe*, Civil No. 76-589-N (E.D. Va., *dismissed as moot*, April 5, 1977).

Background

From the time of its acquisition by the United States in 1938 until 1972, the Back Bay Refuge beach in Virginia was open to unrestricted vehicular traffic. Rapidly increasing traffic levels led FWS to institute a permit system in 1973, which generally limited access to fill-time Outer Banks residents and qualified commercial fishermen. In 1976, access was extended to qualified improved property owners, but FWS announced its intent to terminate all access at the end of 1979. FWS, *Public Access*, 41 FR 12689 col. 3 (1976).

In its 1980 rule making, the agency reversed this decision in part, allowing access for qualified permanent residents to continue. Access for part-time residents was, however, terminated. In July, 1980, Congress extended Back Bay access by law to 13 full-time resident families who did not qualifty under the agency's regulations. Pub. L. No. 96-315, § 3, 94 Stat. 958 (1980).

For the reasons set forth below, we request that FWS extend access as well to qualified part-time residents of the Outer Banks.

Proposed Regulations

The special regulations governing access to Back Bay are promulgated under 50 CFR Part 26 and are published in 45 FR 35826 (1980). We request that these special regulations be amended as follows:

1. Change the boundary line in § 26.34(a)(1) to included Whalehead;

2. Renumber § 26.34(a)(2) to (a)(3), and add the following new paragraph (a)(2):

Owners of improved property as of September 15, 1981, in the area described in subsection (a)(1). Only one permit will be issued per family; and

3. Insert the following after the first sentence of § 26.34(c):

Permitted vehicles of all other improved property owners shall be limited to sixty one-way trips per year.

Limited Access for Part-Time Residents is Compatible With the Purposes of the Refuge

Under 16 U.S.C. 668dd(d)(1)(A), the Secretary of the Interior is authorized to

permit the use of any area within the [National Wildlife Refuge] System for any purpose, including * * * access whenever he determines that such uses are compatible with the major purposes for which such areas were established * * *)

FWS has itself recognized that limited access can be compatible with the purposes of Back Bay Refuge. When the agency decided to continue the permit program for permanent residents, it stated:

We believe that such use is compatible with the purposes for which the refuge was established. 45 FR 35824 col. 3 (1980).

The additional access that this petition seeks would not add substantially to existing traffic through the Back Bay Refuge. The impact of that traffic, moreover, is itself not environmentally significant. These points are addressed below.

I

Limited Vehicular Traffic has no Significant Environmental Impact on the Refuge

FWS's finding of compatibility for the limited beach traffic which it has allowed is amply supported by scientific evidence. The two major concerns regarding such traffic are its effects on beach erosion and refuge wildlife. But studies of both the Back Bay beach and similar beaches demonstrate the insignificant environmental impact of controlled vehicular traffic, and these findings are supported by the agency's actual experience with such traffic in the refuge.

A. Limited Traffic does not Damage the Refuge Beach

In its natural state, the Back Bay beach is not a stable, unchanging entity. Rather, it is

"one of the earth's most dynamic environments. The beach * * * is ever changing and ever migrating, and we now know that it does so in accordance with the earth's natural laws. The natural laws of the beach control a beautiful, logical environment that builds up when the weather is good, and strategically (but only temporarily) retreats when confronted by big storm waves." O. Pilkey, Jr., W. Neal, and O. Pilkey, Sr., *From Currituck to Calabash: Living with North Carolina's Barrier Islands* 31 (1978).

Because of this dynamic condition, sand disturbances in the intertidal zone due to traffic are not permanent intrusions into otherwise static environment. They are exceedingly temporary, and have no lasting impact at all. The authors of an extensive study of Cape Cod National Seashore stated:

"Of the various ecosystems studied, the most naturally variable and *therefore the most resistant to long term vehicle impact* appears to be the intertidal ocean beach * * * The continuous change from sand transport during tidal cycles, as well as annual and storm induced beach cycles, made analysis of ORV (off-road vehicle) impacts very difficult and of questionable reliability. Therefore, no definite conclusion could be drawn regarding long term impact *other than that natural changes appeared to overwhelm vehicle effects of this particular beach.*" Godfrey, Leatherman & Buckley, *Impact of Off-Road Vehicles on Coastal Ecosystems*, in *Proceedings of the Symposium on Technical, Environmental, Socioeconomic and Regulatory Aspects of Coastal Zone Planning and Management* 581, 586 (1978) (emphasis added).

Given the similar dynamic nature of the Back Bay beach, this finding is fully applicable here.

An extensive sand compaction study at Back Bay disproved the possibility that traffic leads to increased intertidal beach erosion. To the contrary, the study found that the shear strength of the sand in the trafficked areas is *increased* due to the compacting effect of the vehicles, thus *improving* the beach's ability to resist natural erosion.

"The findings * * * indicate shear strength was significantly increased, in the vast majority of cases, by vehicular traffic within both study sites (Back Bay and False Cape State Park). *The increase in shear strength would permit the beach sand to withstand higher shear stresses before displacing.*" J. Cross & P. Crowley, A Statistical Evaluation of the Effects of Vehicular Traffic on Beach Shear Strength and the Migration of Juvenile Ghost Crabs 14 (Oct. 20, 1979) (emphasis added).

"Consequently, vehicular traffic within the Back Bay beach area is not causing the erosion of this beach. Rather, it is helping to slow down the process by more firmly compacting the beach, thereby making it more difficult for incoming wave energies to displace the sediment." Letter from Randall S. Spencer, Professor of Geophysical Sciences, Old Dominion University, to Walter J. Leveridge at 2 (Oct. 29, 1979) (Attachment No. 1).

These findings were cited by Senator Helms when he introduced the legislation which led to the expansion of permanent resident access in 1980. 126 Cong. Rec. S7095 (daily ed. June 16, 1980).

When FWS previously considered the Cross and Crowley study, it did not disagree with the specific findings of those investigators. Instead, the agency pointed to issues not addressed by the

study, such as incidents of traffic on foredune slopes and behind the dunes, which according to FWS occur at monthly high tide ranges. 45 FR 35825 col. 1–2. But FWS did not give any indication of the frequency of such incidents, the severity of any damage resulting from them, or extent to which permit holders are responsible (as opposed to drivers illegally on the beach altogether). Under Section 26.34(b), such travel is illegal. We believe that permit holders in general fully comply with the agency's restrictions on travel routes. As the President of VWF stated in 1979,

"not one case of documented degradation of the Refuge has occurred during the limited access provided to permanent residents and improved property owners." Letter from Walter J. Leveridge to Regional FWS Director Howard N. Larsen at 2 (Dec. 18, 1979) (Attachment No. 2).

Moreover, to the extent that such incidents of illegal travel do occur, their incidence is small and their impact is minor—so minor, in fact, that it was fully acceptable to FWS at one time. When the agency first liberalized the access restrictions in 1976, it stated:

"Current travelers generally wait for receding or low tides, concentrating travel away from the dunes, thus reducing the impact." FWS, *Final Environmental Assessment: Alternative Beach Access Regulations, Back Bay National Wildlife Refuge* at 26 (1976) (hereinafter 1976 EIA).

Finally, if incidents of illegal travel do pose a significant problem, then that problem can be more effectively solved by means other than categorically denying permits. The coincidence of high tide ranges with permitted travel periods is fully predictable. *E.g.*, 1976 EIA at 26. Travel during such times could be diverted to either of the two dike roads which run through the refuge.[1]

B. Limited Traffic does not Significantly Affect Refuge Wildlife

The impact of controlled beach traffic on wildlife is similarly insignificant. The Godfrey study (page 5 *supra*) states that the mere proximity of beach traffic does not in itself adversely affect the hatchability of shorebird eggs; to the extent that there is any loss of eggs and chicks due to direct vehicle contact, this can be practically eliminated by such protective measures as closure of nesting areas. *Id.* at 594. "When nesting colonies are protected by fences, and drivers obey the rules, ORV impact on birds can be minima * * *" *Id.* at 595. In fact, *pedestrian access* may pose a far greater danger to shorebirds than does traffic:

"[B]irds can acclimate to vehicles passing very close to their nests, but would flush when persons or dogs approached. * * * [T]he greatest disturbance to the birds occurs when people stop their vehicles and walk over to the colony, or when they walk up the beach. Free-running pets that enter the colony can cause more harm than hudreds of vehicles passing around the enclosure." *Id.*

The Cross and Crowley study similarly found that "tire tracks should not present a barrier to juvenile ghost crab migration." Cross & Crowley, *supra* at 15.

These studies do not, of course, answer every conceivable question regarding the impact of limited traffic on beach wildlife. But they do strongly suggest that this impact is minimal. The experience of FWS with controlled Back Bay traffic over the past few years fully supports this.

II

The Extension of Access to Part-Time Residents Would not Significantly Increase Current Total Beach Traffic

Approximately 36 permits, each allowing two round trips daily, will be issued this year to permanent residents under existing legislation and rules. This will allow over 26,000 round trips per year (36×2×365 days). An extension of access to qualified seasonal residents would add no more than about 150 families, each of whom would be entitled to only 30 round trips per year. This would constitute an increase of only 4500 allowable round trips per year. In effect, access for part-time residents would increase the total allowable beach traffic by less than 18 percent. This is not a substantial amount.

The actual, as opposed to potential, increase would be far less than this. From 1977 to 1979, actual beach traffic was less than 25 percent of the allowable amount. The recorded average for those years was 5,029 round trips, even though 20,500 trips were allowed.[2] Thus, even if every part-time permit holder makes every allowable trip, it is almost certain that the total traffic will still be far below the level which is presently *permitted* by FWS.

Any extension of access poses the possibility that it will lead to additional extensions in the future, eventually producing an intolerable situation similar to that which existed in the early seventies. The mere existence of this possibility, however, is not a ground for dismissing all requests for access whatsoever. FWS has had experience with both compatible and incompatible levels of traffic in the past, and it knows the difference between the two. The agency's experience and knowledge is the best safeguard against any repetition of uncontrolled refuge traffic.

The boundary change which we have requested, from Corolla to Whalehead, would encompass a small number of individuals who have previously been excluded from permits. Recognizing that some cut-off date must be imposed in order both to control traffic and to know the number of permits at issue, we have proposed September 15, 1981. That date would allow those few families on the verge of building homes to do so, but it would not significantly increase the total number of families qualifying for permits. Should FWS find that considerations of traffic control require some other cut-off date, there is no obstacle to incorporating such a date into the regulations.

The main issue, however, is that some form of access for part-time residents be allowed. The hardships currently imposed on these residents are fully documented in the numerous individual letters sent by them to this agency. The distance they must travel to reach their homes has been increased fourfold, and these homes are subject to a much greater risk of vandalism because of the resulting prolonged absences of their occupants. The agency's past response to this issue, that vandalism would occur anyway (45 FR 35825 col. 1), simply misses the point.

Conclusion

"[T]he issues of ORV impact on the environment have frequently centered around emotional stands taken by opponents and proponents alike." Godfrey, *supra* at 582. FWS has steered clear of such emotionalism in the past by refusing to allow unlimited traffic on the Back Bay Refuge beach and by more recently refusing to shut off access entirely. The moderate extension of access which we have requested would greatly benefit part-time residents; at the same time it would not, as shown, have any substantial adverse impact on the refuge environment. For these reasons, and for the reasons set forth in

[1] The minimal impact of such a diversion is evidenced by the recent decision of FWS to allow the State of Virginia to haul 6000 tons of gravel over these roads to False Cape Park. *See* FWS, *Environmental Assessment: Use of Dike/Road on Back Bay National Wildlife Refuge for hauling Gravel to False Cape State Park* (May, 1981). Given this minimal impact, the agency should consider using these roads, rather than the beach, as the *regular* route for permit-holder traffic as well.

[2] The number of recorded round trips was: 1977–5480; 1978–4877; 1979–4731 (the 1979 figure is extrapolated from the available data for the first eight months of that year). The data is from information contained in a letter from Refuge Manager Glen W. Bond, Jr. to Merville Litton (Sept. 7, 1979) (Attachment No. 3).

the other letters and requests received by FWS on this issue, this petition should be granted.

Dated: July 1, 1981.

Respectfully submitted,

Ronald A. Zumbrun, Raymond M. Momboisse, Sam Kazman,

Pacific Legal Foundation, 1990 M Street, N.W., Suite 550 Washington, D.C. 20036, Telephone: (202) 466-2686.

By: Sam Kazman,

Attorneys for Petitioners, Virginia Wildlife Federation, and Pacific Legal Foundation.

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BILLING CODE 4310-55-M

50 CFR Parts 13, 14, 16, and 17

Wildlife and Plants; Permit Regulations

AGENCY: Fish and Wildlife Service, Interior

ACTION: Proposed rule.

SUMMARY: The Service proposes to revise certain parts of 50 CFR which address permits for wildlife and plants. The proposal contains three distinct segments: (1) Consolidation and simplification of permit requirements. The regulations contain permit requirements which are redundant and in some cases unnecessary. This confuses applicants, makes for complicated application procedures and generates excessive paperwork. Unnecessary or redundant sections would be deleted as part of an ongoing effort to make permit procedures more understandable to the public. (2) Codification of the schedule of permit application fees. The fee schedule as codified is outdated, leaving permit applicants confused as to when a fee is required and how much. There have been requests from the public to implement the fee schedule through the rulemaking process. A $25 application fee would be required for all permits, certificates, licenses and registration except for certain nonstandard fees: import/export licenses—$50; marine mammal permits—$100; migratory bird and eagle permits—none. (3) Implementation of a formal appeals procedure. Permit applicants whose applications are denied and permittees whose permits are modified, suspended or revoked currently have no defined avenue for appeal. Applicants do not know how to appeal a permit decision, and, because there is no defined procedure for the Service, appeals are not handled consistently. This rulemaking would establish a formal appeals procedure. If the reviewing office cannot grant the appeal, it would submit the request to an Appeals Board according to specific procedures for independent review.

DATE: All revelant comments on this proposed rule received by October 30, 1981 will be considered in developing the final rule.

ADDRESSES: Please address correspondence to the Director, Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240. Information on this amendment is available for review during business hours of 7:45 a.m. to 4:15 p.m., Monday through Friday in Room 605, 1000 N. Glebe Road, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Batky, Staff Biologist, Federal Wildlife Permit Office, Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903).

SUPPLEMENTARY INFORMATION: The Federal Wildlife Permit Office has been charged with reviewing and improving the Service's permit program. Although this is an ongoing project in addition to permit processing, more emphasis will be placed on review and improvement in the next year.

The Service published a Notice of Intent in the April 16, 1981 Federal Register (46 FR 22243) in which it solicited comments on the proposal to consolidate and simplify the permit requirements. In error, the notice implied that all applications for permits issued by the Service be submitted to the Federal Wildlife Permit Office. This is NOT the intent of the Service. This proposal in no way intends to reassign responsibilities for issuing permits within the Service.

Most comments received in response to the Notice of Intent were submitted by State fish and game agencies which disapproved of centralizing issuance of wildlife permits. They argued that a central office would not be attentive to regional needs or those of special applicants. Regional permitting authorities are more likely to understand local situations and therefore to identify information necessary for deciding on issuance or denial of an individual permit application. Regional authorities could more directly help applicants to provide all the pertinent information and eliminate general information which may not apply in an individual case.

These comments are consistent with the experience of the Federal Wildlife Permit Office, that individual situations require individual attention and that this is best provided at the local level.

In the past few months there have been two significant changes in the Service's permit programs. The first began in October 1980 when a Letter of Authorization (LOA) system was implemented. The Convention on International Trade in Endangered Species (CITES) requires an original document be issued for each shipment of listed wildlife. Stamped copies of 6-month, multiple shipment re-export certificates are no longer acceptable to some foreign countries party to CITES. For the protection of U.S. exporters, the U.S. Management Authority had to develop a system whereby an original document specific to the wildlife in each shipment would be issued by a U.S. Fish and Wildlife Service (FWS) officer. After considerable effort, we implemented the LOA system.

Under the previous system, an exporter would obtain a 6-month certificate from the Federal Wildlife Permit Office. For each shipment, the exporter would copy the certificate, enter on the copy the identity of the animals to be shipped, bring everything to the port for inspection, have the certificate copy validated by a FWS inspector, and make the shipment.

Under the LOA system, an exporter obtains a 2-year LOA from the Federal Wildlife Permit Office (instead of four 6-month certificates). For each shipment, the exporter bring his LOA or a copy to the port, identifies the animals to be shipped to a FWS agent who enters their identity on a permit specific to the shipment, proceeds to the inspector for validation of the permit, and makes the shipment. It is suggested that the exporter contact FWS seven days prior to shipment to ensure availability of agents and inspectors. However, in most cases shipment is made the same day the exporter applies for the permit, provided the exporter arrives at a reasonable time of day.

The main differences under the LOA system are that (1) the exporter has less contact with the Federal Wildlife Permit Office, (2) the exporter has an original export document specific to the shipment instead of a stamped copy and (3) the FWS agent at the port, instead of the exporter, enters the identity of the wildlife on the export document. The alternative to the LOA system is to have the exporter apply to the Federal Wildlife Permit office in Washington for a specific permit for each shipment. Processing time for this type of permit has recently averaged 50 days. The exporter would have to identify the animals to be shipped in the application and still have the shipment inspected and permit validated prior to export. The LOA system is more efficient than this alternative, requires less contact

with the Federal Wildlife Permit Office and fulfills the requirements of CITES.

In May 1980, authority to issue Exception to Designated Port permits (50 CFR 14) was delegated to the Special Agents in Charge of the District Offices of the Division of Law Enforcement. The main reasons for doing so are exactly the ones offered as comments in response to the April 16 Federal Register notice: that regional permitting authorities are more likely to understand and be responsive to local situations. Although Exception to Designated Port permits may still be issued by the Federal Wildlife Permit Office in conjuction with other authorizations, we expect that the majority will be handled at the more local level.

Additional permit areas which may be simplified or consolidated will be addressed in the upcoming review. There are, however, certain items in the permit system that can be improved now. These include elimination of unnecessary application and report requirements, codification of the fee schedule and implementation of a formal appeal procedure.

Elimination of Unnecessary Requirements

Some of the regulatory requirements for permits have proved unnecessary or unwieldy and their elimination will improve the permit system. These regulations are found in Parts 10 through 23 of 50 CFR.

Section 13.11 would be revised to indicate that the application must be submitted in writing on a Service form (Form 3-200), update the addresses where applications should be forwarded and provide a realistic notice of when applications should be submitted. Almost all applications now received by the Service are on the standard permit application form. The ones which are not are usually incomplete. This causes processing delays for the applicant and creates work for reviewers, as the applicant must be contacted to provide the additional information. This extra effort lengthens processing time for all applications in the system. Much of this effort could be eliminated by requiring standard information in a standard format.

The regulations currently require that applications be submitted at least 30 days prior to the date an applicant would like to begin the activity. Few applications submitted to the Federal Widlife Permit Office meet this requirement. The regulation would be revised as a notice that most applications *should* be received at least 30 days prior to the desired effective date of the permit. Since there are statutory requirements that notice of receipt of applications for marine mammal and endangered species permits be published in the Federal Register and public comments invited for 30 days, applicants should allow 75 days for processing these types of applications.

Section 13.13 requires that applications be abandoned if incomplete after 60 days following notification of deficiencies. Applicants sometimes require more than 60 days to obtain certain information and request that their application remain active beyond that deadline. This could be accommodated under the proposed revision.

Section 13.14 requires that any application submitted without the correct fee shall be returned. Many applications submitted with the incorrect fee are done so unknowingly. They are often for activities to be authorized on short notice. Processing delays would be reduced in these instances if this section were revised to require that permits not be issued until the proper fee is received; processing could continue in the interim.

The application requirements, issuance criteria and duration of symbol marking permits issued under § 14.83 would be deregulated. Because of the increasing value of wildlife shipments, anyone who provides the general information in Part 13 and meets the general issuance criteria would be eligible for a symbol marking permit. Although most Service permits are issued for no more than 2 years, this should not be a regulatory requirement for symbol marking permits. The proposal would allow the Service to use discretion in assigning duration to these permits.

Applications for injurious wildlife permits under Section 16.22 should be submitted to the Federal Wildlife Permit Office as indicated in the proposal. The name and address of the consignor or other person from whom the wildlife would be obtained has not proved to be useful information in reviewing applications and would no longer be required. Permittees who import injurious wildlife must complete a Wildlife Declaration for import (Form 3-177) at the port. The requirement to make a second report to the Director within 10 days would be eliminated according to this proposal. The requirement to report death of injurious wildlife to the Director would also be eliminated because such wildlife is of concern only when alive.

Applicants for endangered and threatened species permits under Part 17 are required to provide redundant and often unnecessary information. This would be eliminated by requiring them to provide details of only the activities sought to be authorized. Contracts, a statement of willingness to participate in cooperative breeding programs and a description of facilities are not always necessary to determine if a permit is justified. According to this proposal, such information would be included as details of the activity when relevant, but would not necessarily be required of all applicants.

The requirements that reports for endangered and threatened species permits be submitted within 10 days of completion of the authorized activity and that all carcasses be preserved have proved unrealistic in many cases. Useful results are not always available within 10 days after completion of activities under scientific research permits. Permittees authorized to import or export such wildlife are required to complete a Wildlife Declaration (Form 3-177). A second report within 10 days is unnecessary. Some specimens are too large to readily preserve, or are collected under conditions which make successful preservation unlikely. This proposal would allow the Service to include realistic reporting and disposal conditions in endangered and threatened species permits.

The commercial importation of red, eastern gray and western gray kangaroos, and their parts and products, taken in accordance with management plans of Australian States is now allowed under Special Rule 50 CFR 17.40(a) (46 FR 23929). There is no longer a need for importers to obtain economic hardship permits from the Service. The regulation which provides for economic hardship permits would be eliminated since it is unnecessary and it might confuse importers.

Fee Schedule

General statutory authority to charge fees for permits and certificates is found in 31 U.S.C. 483(a) which provides that any Federal agency may charge fees for services including permits and certificates to make these services "self-sustaining to the full extent possible." The Endangered Species Act of 1973, as amended [16 U.S.C. 1540(f)] authorizes the Secretary to "charge reasonable fees for expenses to the government connected with permits or certificates authorized by the Act including processing applications and reasonable inspection * * *" The Marine Mammal Protection Act of 1972 [16 U.S.C. 1374(g)] provides that the "Secretary shall

establish and charge a reasonable fee for permits" issued pursuant to the Act.

Current regulations in 50 CFR 13.11(d) stipulate a $10 application fee for feather import quota permits. Application fees for marine mammal permits for scientific research and public display are prescribed on an individual basis. The regulations provides for a $50 fee for an import/export license.

In addition, a $25 application fee is presently charged for African elephant special purpose permits, for alligator buyer, tanner, and propagator permits, for other endangered and threatened species permits, for non-designated port permits, for injurious wildlife permits, for symbol marking permits, and for Convention permits and certificates. There are currently no application fees for other types of permits.

The public has expressed confusion about when fees are charged and what amount. The Service believes that this confusion can be cleared up by codifying the fee schedule and by inviting comment through the rulemaking process.

Expenses for salaries for permit reviewers and clerical personnel, copying, publication and mailing constitute the major costs for processing permit applications. These expenses to the U.S. Fish and Wildlife Service result from reviewing applications, obtaining and reviewing data and comments submitted by other offices and individuals reviewing the applications, and preparation and transmittal of the permit or other document.

The proposed fee schedule is based on the total review process for each type of permit. Some review processes are more complicated than others, and this is reflected in the amount charged to process the application. All applications are reviewed by one or more elements of the Service. Some, such as those for marine mammal and Endangered species permits, are also reviewed by other Federal agencies and the public, and notice of receipt of the application is published in the Federal Register.

The total cost of processing each application is not expected to be borne by the applicant. In many cases, this cost would be prohibitive and might have a negative effect on the resource. However, the Service believes a reasonable fee should be charged for permit applications to help defray processing costs. Congress has authorized agencies to charge such fees as mentioned above.

The only exception to the proposed fee schedule is that any Federal, State, or local government agency, or an individual or institution under contract to such agency for the proposed activity, would be exempt.

The proposed amendment prescribes application fees to be charged for certain types of permits. The fee schedule reflects a portion of the expenses incurred in processing an application. The fees would be either $25 for most applications, $50 for import/export licenses or $100 for marine mammal permit applications.

The types of permit applications which would currently require a $25 fee, and the section of 50 CFR under which they are currently issued, are: exception to designated port permits for scientific purposes (14.31), to minimize deterioration or loss (14.32), and to alleviate undue economic hardship (14.33); symbol marking (14.83); feather import quota allocation (15.21) and reallocation (15.24); injurious wildlife (16.22); captive-bred wildlife registration (17.21); endangered species for scientific purposes or enhancement of propagation or survival (17.22); endangered species economic hardship (17.23); threatened species except as otherwise noted (17.32, 17.40, 17.41, 17.42, 17.44 and 17.47); endangered or threatened species similarity of appearance (17.52); endangered plants for scientific purposes or enhancement of propagation or survival (17.62); endangered plants economic hardship (17.63); threatened plants (17.72); and Convention permits and certificates (23.15).

The proposed regulation also provides that the $25 processing fee would apply to all applications unless specified otherwise. If, for instance, a special rule were promulgated under the Endangered Species Act, an applicant for a permit under that rule would realize that the processing fee for a permit application under that special rule would be $25 unless otherwise noted.

A $50 application fee for import/export licenses was implemented in the general revision to 50 CFR Part 14 (45 FR 56668). That fee would remain unchanged.

A $100 application fee would be charged for marine mammal scientific research or public display (18.31) permit applications. These require the most extensive review. All of these applications must be reviewed by at least three Fish and Wildlife Service elements, state agencies, usually at least two other Federal agencies, and notice of receipt of the application and issuance of a permit must be published in the Federal Register. They require careful scrutiny and extensive copying of a large volume of information.

There is currently no application fee for migratory bird permit (50 CFR 21) and eagle permits for Indian religious use (22.22) or depredation control (22.23). This would not change because it appears that a fee would prohibit many qualified persons from applying for a permit.

For convenience, proposed fees appear in table form:

Type of permit and regulations	Proposed fee
Importation at non-designated ports:	
Scientific (14.31)	$25
Deterioration prevention (14.32)	25
Economic hardship (14.33)	25
Symbol Marking (14.33)	25
Import/Export License (14.93)	25
Feather import quota:	
Allocation (15.21)	25
Reallocation (15.24)	25
Injurious Wildlife (16.22)	25
Endangered Species	25
Captive-Bred Wildlife Registration (17.21)	25
Scientific or enhancement (17.22)	25
Economic hardship (17.23)	25
Threatened Species:	
Scientific, enhancement, education, zoological exhibition, economic hardship or special purpose, except as noted otherwise (17.32)	25
Special rules—mammals (17.40)	25
Special rules—birds (17.41)	25
Special rules—reptiles (17.42)	25
Special rules—fishes (17.44)	25
Special rules—insects (17.47)	25
Marine Mammal (18.31)	100
Registered agent (18.23)	25
Scientific research and public display (18.31)	100
Convention Permits and Certificates (23.15)	25

Sometimes an application for a particular transaction or series of transactions involves more than one regulation. If the transaction can reasonably be accommodated under one permit, the associated application fees, as a rule, would not be additive. The fee would be the greatest amount of any one portion of the permit. For example, if someone wanted to import a marine mammal ($100) through a non-designated port to prevent loss ($25), the total application fee would be $100 since the transaction could reasonably be accommodated under one permit. However, if the same person also applied for registration to sell captive-bred exotic endangered species in interstate commerce ($25) at the same time, the total would be $100 plus $25, or $125 total, since two permits would probably have to be issued. The decision whether or not to split an application would lie with the issuing office, and would be based on considerations other than the fee.

Applications for renewal or amendment of permits must be accompanied by the same fee that is charged for applications for new permits. The review process and incurred costs for renewals and amendments are similar to those for new permits.

The application fee is charged to offset the costs of processing the

application. It is not a permit fee. The fee will not be returned in cases where the permit is issued or the application is denied or abandoned. However, the fee may be returned if an application is withdrawn and has not been acted on by reviewing offices.

Appeals Procedure

The current regulations (50 CFR 13.21, 13.23) which provide for a written appeal to a permit action were developed for the implementation of the Lacey Act and the Migratory Bird Treaty Act. These Acts and a few others were administered almost exclusively at field and regional offices of the Service. Although permit procedures were specific to the requirements of the Acts and regulations, they were much less complex than those permit procedures developed for the Endangered Species Act, Marine Mammal Protection Act, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and even the expanded uses of the Lacey Act and Migratory Bird Treaty Act. Permit administration has expanded to accommodate the special reviews required by the new Acts. Most of the new types of permit actions are processed in the Federal Wildlife Permit Office, Washington, D.C.

These changes in permit administration and the regulations developed for the new Acts have made the present appeals regulation obsolete. As now stated, a person may appeal a permit denial "If authorized in the notice of the denial . . . Such further submission shall not be considered a new application. The final action by the Director shall be considered the final administrative decision of the Department" [50 CFR 13.21(d)]. Amendment, renewal and recall actions receive the same treatment (Sections 13.23, 13.24, 13.41).

Permits are still administered in field and regional offices, as well as the Federal Wildlife Permit Office. The Service wishes to establish a clear and concise method for applicants or permittees to appeal actions taken by the Service at any location. The proposed regulation provides for an appeal to be submitted by the applicant or permittee to the office which issued the denial, modification, amendment, or other action. Upon receipt of an appeal request, the office may either grant the request or forward the request to the Director, or to the Regional Director in the case of field and regional actions, who will establish an Appeals Board to review and recommend on the request. That Appeals Board will then submit its recommendation to the Regional Director or Director as appropriate, whose action then will be the final administrative decision of the Department.

The Appeals Board's actions will be independent of both the issuing office and the Director or Regional Director. The Board may select advisors from any office, including the issuing office, to provide background and technical information that will aid the Board in reaching a proper decision.

This rulemaking was written by Robert Batky, Staff Biologist, Federal Wildlife Permit Office, Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903).

Note.—The Department of Interior has determined that this is not a major rule and does not require preparation of a regulatory analysis under Executive Order 12291. Further, the Department of Interior has determined that the rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. This determination is based upon the fact that the rulemaking will involve only minute costs, *i.e.* the cost of permits, for small entities.

The information collection requirements contained in Sections within Part 13 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018-0022.

Regulations Revised

It is proposed that Parts 13, 14, 16, and 17 of Title 50 Code of Federal Regulations be amended as follows:

PART 13—GENERAL PERMIT PROCEDURES

Subpart A—Introduction

1. Add a new § 13.5 to read as follows:

§ 13.5 Information collection requirements.

The information collection requirements contained in Sections within Part 13 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is mandatory.

Subpart B—Application for Permits

1. Section 13.11 is revised to read as follows:

§ 13.11 Procedure for obtaining a permit.

(a) *Forms.* Applications must be submitted in writing on an appropriate Service application form (Form 3-200).

(b) *Forwarding instructions.* Applications for permits listed below should be forwarded to the office indicated.

(1) Migratory bird banding permits (50 CFR 21.22)—Bird Banding Laboratory, Office of Migratory Bird Management, Fish and Wildlife Service, Laurel, Maryland 20810.

(2) Exception to designated port (50 CFR Part 14), import/export license (50 CFR 14.93), migratory bird permit other than banding (50 CFR Part 21), and eagle permits (50 CFR Part 22)—Special Agent in Charge of the Law Enforcement District in which the activity will occur (see 50 CFR 10.22).

(3) Symbol marking (50 CFR 14.83), feather quota (50 CFR Part 15), injurious wildlife (50 CFR Part 16), endangered and threatened species (50 CFR Part 17), marine mammal (50 CFR Part 18) and Convention (50 CFR 23)—Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203.

(c) *Time notice.* Applications for endangered species permits and marine mammal permits should be received by the Federal Wildlife Permit Office at least 75 calendar days prior to the desired effective date of the permit. Applications for other permits should be received by the issuing office at least 30 calendar days prior to the desired effective date. Although the Service will try to process all applications as quickly as possible, it cannot guarantee final action within the suggested time frames.

(d) *Permit fees.* (1) Applications for permits, certificates, licenses and registrations, and for their renewal and amendment, must be accompanied by an application fee in the form of a check or money order made payable to "U.S. Fish and Wildlife Service". Application fees shall not be refunded if the permit is issued or if the application is denied or abandoned. The fee may be returned if an application is withdrawn and has not been acted on by the reviewing offices.

(2) Application fees shall be $25 unless specified below as "Nonstandard." The issuing office may, at its discretion, group parts of a transaction or series of transactions for the purpose of assessing a fee, the general rule being that each part of a transaction requiring a separate permit shall require a separate fee. Application fees shall not be additive for parts of a particular transaction or series of transactions if they can be

accommodated under one permit, but shall be the greatest amount of any of those parts.

(3) The fee schedule does not apply to any Federal, State, or local government agency, nor to any individual or institution under contract to such agency for the proposed activities. Proof of such exempt status must accompany the application.

(4) Nonstandard fees.

Type of permit	Fee
Import/export license (section 14.93)	$50
Marine mammal (section 18.31)	100
Migratory bird (part 21)	None
Bald or golden eagles (part 22)	None

2. Section 13.13 is revised to read as follows:

§ 13.13 Abandoned applications.

Upon receipt of an incomplete or improperly executed application, the applicant shall be notified of the deficiency in the application. If the applicant fails to supply the deficient information or otherwise fails to correct the deficiency within 60 days following the date of notification, the application may be considered abandoned.

3. Section 13.14 is revised to read as follows:

§ 13.14 Insufficient fee.

No permit will be issued until the proper fee is received.

§ 13.21 [Amended]

4. In § 13.21, paragraph (d) is removed.

5. Section 13.32 is added to read as follows:

§ 13.32 Appeal procedure.

The applicant shall be notified in writing of the denial of any permit request, and the reasons therefor. The applicant may appeal the denial in accordance with this Section. The appeal shall not be considered a new application. The final action by the Director or Regional Director, as appropriate, shall be considered the final administrative decision of the Department.

(a) The appeal of any action authorized by this Subpart may be initiated by:

(1) An applicant who has received written notice that his application has been denied;

(2) A permittee or applicant who has requested modification of a term or condition of his application or permit, which has been denied;

(3) A permittee whose permit has been recalled, amended, revoked or suspended during its term; or,

(4) A permittee whose permit has been issued, but who has not been authorized to conduct part of the requested activity, or believes that modifications made to requested actions are unacceptable.

(b) The request for an appeal must be submitted in writing to the office which issued the denial or other action to be appealed within 60 days of the date of notification of the action taken and contain new information or justification why the permit should not be denied or why the permit action in question should not be taken. Such new information or justification should address the reasons for denial as cited by the issuing office.

(c) The issuing office shall make a decision on the appeal and notify the applicant of its decision within 30 days of receipt.

(d) If a decision favoring the applicant is not made by the issuing office, the appeal shall be forwarded by the issuing office to the Director or Regional Director, as appropriate, who will establish an Appeals Board to review the material submitted in accordance with paragraphs (a) and (b) of this section, and any other material considered by the office which denied the appeal. The Board may also seek additional written or oral information from the applicant, the issuing office and from other sources.

(e) The applicant may, by submitting a written request, appear before the Appeals Board. The time and duration of such appearance shall be determined by the Appeals Board, taking into account the convenience of the applicant. The applicant may, at any point in the proceedings be represented by counsel before the Appeals Board. The applicant has a right, at any time, to see all information considered by the Appeals Board. Copies will be provided according to procedures set forth in 43 CFR Part 2.

(f) Upon receiving an appeal in accordance with this Section, the Appeals Board will determine whether or not a permit should be issued, a permit condition should be deleted or modified, a revocation or suspension discontinued or other appropriate action taken. In making this determination, the Appeals Board shall consider the issuance criteria for the type of permit for which the application was made. The Appeals Board may recommend alternate courses of action. The determination of the Appeals Board shall be immediately forwarded to the Director or his designee, or the Regional Director or his designee, as appropriate, who shall make the final administrative decision of the Department. This decision will be immediately sent to the applicant along with an explanation of the reasons for the decision.

(g) The Appeals Board shall consist of three or more persons from Service offices other than the issuing office. Majority vote shall constitute a final action of the Board. The determination of the Appeals Board must be made within 60 days of receipt of the appeal by the Director or Regional Director.

PART 14—IMPORTATION, EXPORTATION AND TRANSPORTATION OF WILDLIFE

6. In § 14.83, paragraph (b) is revised and paragraphs (d) and (e) are removed as follows:

§ 14.83 Symbol marking permit.

* * * * *

(b) Application procedures. Applications for symbol marking permits must be submitted to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203 according to § 13.12 of this chapter and may include, at the option of the applicant, a suggested two or three letter symbol.

* * * * *

(d) [Removed]

(e) [Removed]

PART 16—INJURIOUS WILDLIFE

Subpart C—Permits

7. In § 16.22, paragraphs (a) and (b)(3) are revised, and paragraph (b)(4) is removed as follows:

§ 16.22 Injurious wildlife permits.

* * * * *

(a) Application procedure. Applications for permits to import or ship injurious wildlife for such purposes shall be submitted to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203. Each such application must contain the general information and certification required by § 13.21(a) of this subchapter plus the following additional information:

(1) The number of specimens and the common and scientific names (genus and species) of each species of live wildlife proposed to be imported or otherwise acquired, transported, and possessed;

(2) The purpose of such importation, or other acquisition, transportation, and possession;

(3) The address of the premises where such live wildlife will be kept in captivity;

(4) A statement of applicant's qualifications and previous experience

in caring for and handling captive wildlife.

(b) * * *

(3) Permittees must notify the nearest Special Agent in Charge (see § 10.22 of this chapter) by telephone or telegraph within 24 hours following the escape of any wildlife or their progeny possessed under authority of a permit, unless otherwise specifically exempted by terms of the permit.

(4) [Removed]

* * * * *

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Subpart C—Endangered Wildlife

8. In § 17.22, paragraphs (a)(6), (a)(7), and (c) are revised and paragraph (a)(8) is removed as follows:

§ 17.22 Permits.

(a) * * *

(6) If the applicant seeks to have live wildlife covered by the permit, a complete description, including photographs or diagrams of the facilities to house and/or care for the wildlife, and a resume of the experience of those persons who will be caring for the wildlife.

(7) A full statement of the reasons why the applicant is justified in obtaining a permit including the details of the activities sought to be authorized by the permit.

(8) [Removed]

* * * * *

(c) Permit conditions. In addition to the general conditions set forth in Part 13 of this subchapter, the death or escape of all living wildlife covered by the permit shall be immediately reported to the Service's office designated in the permit.

* * * * *

Subpart D—Threatened Wildlife

9. In § 17.32, paragraphs (a)(6), (a)(7), and (c) are revised and paragraph (a)(8) is removed as follows:

§ 17.32 Permits—general.

(a) * * *

(6) If the applicant seeks to have live wildlife covered by the permit, a complete description, including photographs or diagrams of the facilties to house and/or care for the wildlife, and a resume of the experience of those persons who will be caring for the wildlife.

(7) A full statement of the reasons why the applicant is justified in obtaining a permit including the details of the activities sought to be authorized by the permit.

(8) [Removed]

* * * * *

(c) Permit conditions. In addition to the general conditions set forth in Part 13 of this subchapter, the death or escape of all living wildlife covered by the permit shall be immediately reported to the Service's office designated in the permit.

10. In § 17.40, paragraph (a)(1)(i)(A) is revised and paragraph (a)(2) is removed as follows:

§ 17.40 Special rules—mammals.

(a) * * *

(1) * * *

(i) * * *

(A) Except as allowed in paragraph (a)(1)(i)(B) of this section, it shall be unlawful to import any such wildlife for commercial purposes.

* * * * *

(2) [Removed]

Dated: August 28, 1981.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 81-27141 Filed 9-17-81; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 46, No. 181
Friday, September 18, 1981

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

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

Notice is hereby given pursuant to § 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on October 21, 1981, at 7:00 p.m., a public information meeting will be held at the Griegos Public School, 1260 Van Cleave, N.W., Albuquerque, New Mexico.

The meeting is being called by the Executive Director of the Council in accordance with § 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed North Valley River Crossing, Albuquerque, New Mexico (Project M-4000(3)), an undertaking assisted by Federal Highway Administration (FHWA) that will adversely affect the John F. Simms House, Albuquerque, a property eligible for the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the property by FHWA.

III. A statement by the New Mexico Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 44 Union Boulevard, Suite 616, Lakewood, Colorado 80228, telephone number (303) 234-4946.

Dated: September 14, 1981.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 81-27143 Filed 9-17-81; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Arizona Electric Power Cooperative, Inc.; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has made a Finding of No Significant Impact (FONSI) in connection with proposed financing assistance by REA for Arizona Electric Power Cooperative, Inc., (AEPCO) of Benson, Arizona. AEPCO proposes to finance Carbon Coal Company's (Carbon) construction of 4.75 miles of water pipeline and 11 shallow evaporation ponds in McKinley County, New Mexico. These facilities will be utilized by Carbon to augment their existing water supply for the purpose of washing coal at the Mentmore Mine.

AEPCO prepared a Borrower's Environmental Report concerning the proposed project and an Environmental Assessment has been prepared by REA.

REA has determined that the proposed project will have no effects on wetlands, threatened and endangered species, historical and archaeological sites or important farmland, and that any potential impacts to floodplains will be minimized

The floodplain of the Puerco River will be crossed by the proposed pipeline and REA has determined there are no practical alternatives to crossing the floodplain. However, there will be no adverse effects on the floodplain of the Puerco River or incompatible development arising from the placement of the pipeline within the floodplain.

The alternatives evaluated by REA included no action, buying coal from another source, additional deep wells, alternative routes and conservation. After reviewing these alternatives, REA has determined that construction of the project as proposed represents the preferred alternative.

REA's independent evaluation of the proposed project concludes that its proposed financing assistance for this action does not represent a major Federal action that will significantly affect the quality of the human environment. Based on REA's independent evaluation, the REA Environmental Assessment, and AEPCO's Borrower's Environmental Report, a Finding of No Signifcant Impact was reached in accordance with REA Bulletin 20-21:320-21, Part I.

Copies of REA's Finding of No Significant Impact, REA's Environmental Assessment and AEPCO's Borrower's Environmental Report may be reviewed at REA in the office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Washington, D.C. 20250, and at the office of Arizona Electric Power Cooperative, Inc., 1401 South Highway 80, P.O. Box 670, Benson, Arizona 85602.

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

Dated at Washington, D.C., this 11th day of September, 1981.

Jack Van Mark,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 81-27220 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-15-M

Kodiak Electric Association, Inc.; Adoption of Final Environmental Impact Statement; Terror Lake Hydroelectric Project

Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, the Federal Energy Regulatory Commission (FERC), in cooperation with the Rural Electrification Administration (REA), has completed the Final Environmental Impact Statement (FEIS) on the Kodiak Electric Association's (KEA), proposed project for the construction and operation of the 20 MW Terror Lake Hydroelectric Project in Kodiak, Alaska.

REA has participated in the preparation of this FEIS, as a cooperating agency, pursuant to § 1501.6(c) of the Council on Environmental Quality (CEQ) Regulations, and intends to use this FEIS to fulfill its requirements under NEPA. In this case, REA's anticipated potential major Federal action is that of providing financing assistance to KEA.

FERC's FEIS availability was announced in the Federal Register on August 14, 1981, (46 FR 41203). Limited Supplies of the FEIS are available upon request to FERC, at its Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426. Copies of the FEIS may be examined during regular working hours, at the above FERC address, as well as at REA's Energy Management and Utilization Division, Room 3862, South Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250, and at KEA, Box 787, Kodiak, Alaska 99615. Final REA action may be taken with respect to this matter within 30 days.

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

Dated at Washington, D.C. this 14th day of September, 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 81-27279 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-15-M

Science and Education Administration

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776) Science and Education announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.

Date: September 23-25, 1981.

Time:

8:30 a.m.-5:00 p.m., September 23-24
8:30 a.m.-1:00 p.m., September 25

Place: Hospitality House, 2000 Jefferson Davis Hwy., Arlington, Virginia

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: The Board will be reviewing and discussing agricultural research and extension programs and preparing its annual report to the Secretary of Agriculture.

CONTACT PERSON FOR AGENDA AND MORE INFORMATION: Marvin E. Konyha, Interim Executive Secretary, National Agricultural Research and Extension Users Advisory Board, Room 357-A Administration Building, U. S. Department of Agriculture; Washington, D.C. 20250; telephone 202-447-3684.

Done at Washington, D.C., this 11 day of September 1981.

John Stovall

Executive Director, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 81-27320 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-03-M

Soil Conservation Service

Camden County Schools R.C. & D. Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919-755-4210.

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, Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Camden County Schools R. C. & D. Measure, Camden County, North Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing flooding and for improving drainage on three school grounds. The planned works of improvement include installing catch basins, pipes, and subsurface drainage tubing. Grading and shaping will be done to improve surface drainage and to eliminate ponding. All disturbed areas will be seeded with adapted permanent vegetation.

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. Coy A. Garrett. 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 October 19, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development 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: September 8, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-27171 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-16-M

Cuthand Creek R.C. & D. Measure, Texas; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76503, telephone 817-744-1214.

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, Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Cuthand Creek R.C. & D. Measure, Red River County, Texas.

The environmental assessment of this federally assisted action indicates that the project 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 an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. Conservation practices include the shaping and vegetation of gullied areas, construction

and vegetation of grade stabilization structures, and fencing.

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. 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 request at the above address.

Implementation of the proposal will not be initiated until October 19, 1981.

(Catalog of Federal Domestic Assistance Program No. 10,901, Resource Conservation and Development 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: September 8, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-27173 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-16-M

Fannin County-McCaysville School Critical Area Treatment R.C. & D. Measure, Georgia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, Federal Building, 455 East Hancock Avenue, Athens, Georgia 30613, telephone 404-546-2273.

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, Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Fannin County-McCaysville School Critical Area Treatment R. C. & D. Measure, Fannin County, Georgia.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Dwight M. Treadway, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the treatment of a critically eroding school ground area. The planned works consist of the establishment of erosion control vegetation on 34 acres.

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. Dwight M. Treadway. 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 October 19, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development 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: September 8, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-27170 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-16-M

Hazelton Butte Watershed, Idaho; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Amos I. Garrison, Jr., State Conservationist, Soil Conservation Service, Room 345, 304 North 8th Street, Boise, Idaho 83702, telephone (208) 334-1601.

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, Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Hazelton Butte Watershed; Jerome County, Idaho.

The environmental evaluation of this federally-assisted action indicates that the project will not cause significant adverse, local, regional, or national impacts on the environmental. As a result of these findings, Mr. Amos I. Garrison, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for applying conservation measures to reduce onfarm erosion from winter storms and irrigation return flows, reduce onsite sediment damages, and offsite sediment damages in the Snake River. Improvement of the water quality of the Snake River is a major benefit of these measures. The planned works of improvements include conservation tillage systems and improved irrigation systems, including appropriate management practices such as crop residue use and irrigation water management.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basis data developed during the environmental evaluation and environmental assessment are on file and may be reviewed by interested parties by contacting Mr. Amos I. Garrison, Jr. 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 October 19, 1981.

(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: September 8, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-27167 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-16-M

Hopkins County Youth Athletics Recreational Area R.C. & D. Measure, Kentucky; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Eddie L. Wood, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, Kentucky 40504, telephone 606-233-2749.

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, Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Hopkins County Youth Athletics Recreational Area R.C. & D. Measure, Hopkins County, Kentucky.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Eddie L. Wood, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for land drainage, water disposal, and vegetative cover. The planned works of improvement include: critical area treatment, underground tile drainage, open ditch drainage, a riprap chute, a grass waterway, a diversion channel, and some land smoothing.

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. Eddie L. Wood. 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 October 19, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development 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: September 8, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-27169 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-16-M

Moss Neck Watershed, N.C.; Availability of a Record of Decision

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of availability of a record of Decision.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, P.O. Box 27307, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone (919) 755-4210.

Notice: Mr. Coy A. Garrett, responsible Federal official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of North Carolina, is hereby providing notification that a record of decision to proceed with installation of the Moss Neck Watershed project is available. Single copies of this record of decision may be obtained from Mr. Garrett at the above address.

Dated: September 8, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

(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)

[FR Doc. 81-27165 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-16-M

Salmonberry Park R.C. & D. Measure, Oregon; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Guy W. Nutt, State Conservationist, Soil Conservation Service, 1220 S.W. 3rd, 16th Floor, Portland, Oregon 97204, telephone (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, Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Salmonberry Park R.C. & D. Measure, Benton County, Oregon.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the 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 are not needed for this project.

The measure concerns a plan for recreation facilities. The planned works of improvement include reconstruction of boat ramp, upgrading access road, picnic tables, comfort station, and graveling parking area. Conservation practices include subsurface drains, streambank stabilization, and seeding.

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. 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 October 19, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development 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: September 10, 1981.

David G. Unger,

Associate Chief, Soil Conservation Service.

[FR Doc. 81-27168 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-16-M

Smithville Park Recreation and Fish and Wildlife Development R.C. & D. Measure, New Jersey; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION: Mr. Plater T. Campbell, State Conservationist, Soil Conservation Service, 1370 Hamilton Street, Somerset, New Jersey 08873, telephone 201-246-1205.

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, Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Smithville Park Recreation and Fish and Wildlife Development R.C. & D. Measure, Burlington County, New Jersey.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Plater T. Campbell, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of water-based recreation

facilities and fishery development at Smithville Park to provide opportunities for picnicking, biking, boating, and fishing. The work involves the construction of picnic areas, shelters, playground equipment, and associated sanitary facilities and parking lots. The 20-acre Smithville Lake will be deepened in places for fishery improvement. Water control structures, boat ramps, and fishing piers will be installed.

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. Plater T. Campbell. 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 October 19, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development 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: September 8, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-27175 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-16-M

Southwest Harbor Flood Prevention and Land Drainage R.C. & D. Measure, Maine; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Billy R. Abercrombie, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473, telephone 207-866-2132.

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, Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Southwest Harbor Flood Prevention and Land Drainage R.C. & D. Measure, Hancock County, Maine.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Billy R. Abercrombie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for a water control and disposal system which provides flood protection to a residential and business area and drainage to an athletic field in the town of Southwest Harbor, Maine. The planned water control system consists of the installation of a diversion ditch, two surface inlet structures, an underground conduit system, a tile drainage system, and two rock lined waterways to collect convey, and dispose of surface and subsurface water, and seeding the area disturbed by construction.

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. Billy R. Abercrombie. 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 October 19, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development 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: September 8, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-27174 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-16-M

Twin Bridges Recreation Area Critical Area Treatment R.C. & D. Measure, Oklahoma; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Office Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74070, telephone 405-624-4360.

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, Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Twin Bridges Recreation Area Critical Area Treatment R. C. & D. Measure, Ottawa County, Oklahoma.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment for erosion control. The planned works of improvement include site preparation with fill placement, gravel filter, and riprap.

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. Roland R. Willis. 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 October 19, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development 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: September 8, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-27163 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-16-M

Warren County Centertown School Grounds R.C. & D. Measure, Tennessee; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Donald C. Bivens, State Conservationist, U.S. Courthouse, 801 Broadway Street, Nashville, Tennessee 37203, telephone 615-852-5471.

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, Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Warren County Centertown School Grounds R.C. & D. Measure, Tennessee.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Donald C. Bivens, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns the treatment of eroding areas on the grounds of the Warren County Centertown School. The planned works of improvement include sloping, fertilizing, liming, and seeding to perennial grasses and legumes.

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. Donald C. Bivens. 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 October 19, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development 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: September 8, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-27172 Filed 9-17-81; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended September 11, 1981

Subpart Q Applications

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

Date filed	Docket No.	Description
Sept. 11, 1981	40007	Transamerica Airlines, Inc., c/o Jeffrey A. Manley, Burwell, Hansen, Manley & Peters, Suite 550; 1815 H Street, N.W., Washington, D. C. 20006. Conforming Application of Transamerica Airlines, Inc. pursuant to the provisions of Section 401 of the Act and Subpart Q of the Board's Procedural regulations, requests an amendment of its certificate of public convenience and necessity for Route 194 authorizing it to engage in foreign air transportation of passengers, property and mail by amending the route description of segment 1 to read as follows (newly-requested authority is underscored):
		1. Between a point or points in the United States (other than Sarasota/Bradenton, FL, and Orange County, CA); and Shannon, Ireland, a point or points in Belgium, the Netherlands, Luxembourg, the Federal Republic of Germany, Switzerland, *Spain, Portugal,* Jordan, and Tel Aviv, Israel.
		Answers may be filed by September 25, 1981.
Do	40013	Guy-America Airways, Inc., 118-27 Queens Blvd., Forest Hills, New York 11375. Application of Guy-America Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of an amended certificate of public convenience and necessity for Route 290 authorizing it to engage in foreign air transporation of persons, property and mail between all points in the United States and points in foreign countries as follows:
		"1. Between a point or points in the United States (except Sarasota/Bradenton, Fla., and West Palm Beach, Fla.) and a point/or points in Guyana, Sunnam, Chile, the Bahamas, Jamaica, Haiti, Domnican Republic, St. Maarten, St. Kitts, Antigua, Guadeloupe, Martinique, Barbados, Grenada, Trinidad and Tobago, Curacao, Aruba, Belize, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Belgium, the Netherlands, Luxembourg, the Federal Republic of Germany, Switzerland and Ireland."

Conforming Applications, motions to modify scope, and Answers may be filed by October 9, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-27294 Filed 9-17-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 81-9-90]

Mesaba Aviation d.b.a. Mesaba Airlines; Fitness Determination

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 81-9-90, Order to Show Cause.

SUMMARY: The Board is proposing to find that Mesaba Aviation, Inc., d.b.a. Mesaba Airlines is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended; that it has the ability to provide reliable essential air service; and that the aircraft used in this service conform to the applicable safety standards. The complete text of this order is available as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than October 5, 1981, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Essential Air Services Division, Room 921, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A of the order.

FOR FURTHER INFORMATION CONTACT: Barbara Pfeiffer, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5354.

SUPPLEMENTARY INFORMATION: The complete text of Order 81-9-90 is available from the Distribution Section,

Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 81-9-90 to Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: September 15, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-27297 Filed 9-17-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 81-9-60]

South Pacific Agana Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (81-9-60).

SUMMARY: The Board is instituting the *South Pacific Agana Proceeding* and is proposing to grant unrestricted authority to South Pacific at Agana, Guam under expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed. The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing the proposed authority shall file, and serve on all persons listed below, no later than September 30, 1981, a statement of objections, together with a summary of the testimony, statistical data and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 39837, which we have entitled the *South Pacific Agana Proceeding*. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served upon South Pacific; the mayor and airport manager of Agana, Guam; and the Governor of the Territory of Guam.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5107.

SUPPLEMENTARY INFORMATION: The complete text of Order 81-9-60 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 81-9-60 to that address.

By the Bureau of Domestic Aviation: September 11, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-27296 Filed 9-17-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 81-9-78]

United Air Lines; Addition of Louisville, KY and Syracuse, NY

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (81-9-78).

SUMMARY: The Board is proposing to award air route authority at Louisville and Syracuse to United Air Lines under expedited show cause procedures.

The Complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions of the above order shall file, by September 28, 1981, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings should be served upon all parties listed below.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 39928. they should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428

In addition, copies of such filings should be served on United Air Lines; the Mayor and Airport Manager of each city to which the pleading refers, and the state aeronautical commission of the state in which such city is situated.

FOR FURTHER INFORMATION CONTACT: James F. Ransom, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428, (202) 673-5197.

SUPPLEMENTARY INFORMATION: The complete text of Order 81-9-78 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 81-9-78 to that address.

By the Bureau of Domestic Aviation: September 14, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-27295 Filed 9-17-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Perchlorethylene From France; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on perchlorethylene from France. The review covers the two known exporters of this merchandise to the United States, Chloe Chimie and Rhone Poulenc Petrolchimie, and the period May 1, 1980 through April 30, 1981. The review disclosed no shipments to the U.S. of this merchandise during the period. There are no known unliquidated entries.

As a result of this review, the Department has preliminarily determined to require cash deposits equal to the calculated margin on the last known shipments. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 18, 1981.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3814/5289).

SUPPLEMENTARY INFORMATION:

Procedural Background

On December 5, 1980 the Department of Commerce ("the Department") published in the Federal Register (45 FR 80570) the final results of the first administrative review of the antidumping finding on perchlorethylene from France (44 FR 29045-6, May 19, 1979). The Department announced in the Federal Register of March 16, 1981 (46 FR 1621) its intent to conduct the next administrative review by the end of May 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review of the finding on perchlorethylene from France.

Scope of the Review

The imports covered by this review are perchlorethylene, including technical grade and purified grade perchlorethylene. Perchlorethylene is a clear water-white liquid at ordinary temperature with a sweet odor and is

completely capable of being mixed with most organic liquids. It is a chlorinated solvent used mainly for dry cleaning of clothes, but is also used in other applications such as vapor degreasing of metals.

Perchlorethylene is currently classifiable under item 429.3400 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of only two French exporters of perchlorethylene to the United States. They are Chloe Chimie and Rhone Poulenc Petrochimie. Rhone Poulenc Petrochimie sold its productive capacity for chlorine solvents, including perchlorethylene, to Chloe Chimie on January 1, 1981. The review covers the period May 1, 1980 through April 30, 1981. There were no known shipments to the United States during the review period and there are no known unliquidated entries.

Preliminary Results of the Review

As required by § 353.48(b) of the Commerce Regulations, we preliminarily determine that a cash deposit of estimated duties of 47.8 percent of the entered value, based on the weighted-average margin in the original fair value investigation, shall be required on all shipments of perchlorethylene from France entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 15 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 14, 1981.

[FR Doc. 81-27152 Filed 9-17-81; 8:45 am]

BILLING CODE 3510-25-M

Pig Iron From East Germany; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on pig iron from East Germany. The review covers the only known exporter of this merchandise to the United States, Deutsche Stahl-Metall. The review covers the period October 3, 1978 through September 30, 1980. There have been no known shipments to the U.S. during this period and there are no known unliquidated entries.

As a result of this review, the Department has decided to require a cash deposit equal to the margin calculated during the original fair value investigation. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 18, 1981.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3814/5289).

SUPPLEMENTARY INFORMATION:

Procedural Background

On October 29, 1968, a dumping finding with respect to pig iron from East Germany was published in the Federal Register as Treasury Decision 68-262 (33 FR 15904). A "Notice of Tentative Determination to Modify or Revoke Dumping Findings" with respect to this merchandise was published by the Department of the Treasury on October 2, 1978 (43 FR 45497-8). Reasons for the tentative determination were given in the notice and interested parties were afforded an opportunity to present written or oral views. Treasury received comments but took no further action on the proposed revocation. On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 ("the 1921 Act") with a new title VII to the Tariff Act of 1930 ("the Tariff Act"). On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the Federal Register of March 28, 1980 (45 FR 20511-12) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the finding on pig iron from East Germany.

Scope of the Review

Imports covered by this review are shipments of pig iron, which is used in steel production and in the iron foundry industry for making iron castings such as pipe, automobile castings, and machinery parts. Pig iron is currently classifiable under items 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of only one exporter of pig iron from East Germany to the United States, Deutsche Stahl-Metall. The review covers the period October 3, 1978 through September 30, 1980. The Treasury Department reviewed all prior periods.

Review of Prior Comments

The Ad Hoc Committee of Merchant Pig Iron Producers of America objected when Treasury published its tentative revocation. The basis of its objection was that "if the impediment against price discrimination is removed, they will be free to resume their proven unfair marketing tactics and will not hesitate to do so."

Since the exporter has neither requested revocation nor provided the written agreement required by § 353.54(e) of the Commerce Regulations, we will not consider this proposed revocation further.

Preliminary Results of the Review

Our records indicate no shipments of pig iron from East Germany for the period October 3, 1978 through September 30, 1980, and there are no known unliquidated entries.

Interested parties may submit written comments on these preliminary results on or before October 19, 1981 and may request disclosure and/or a hearing on or before October 5, 1981. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

It is our general intention in cases where there are no shipments to determine cash deposit rates on the basis of the margins on the last known shipments. Deutsche Stahl-Metall has not responded to any questionnaire. Therefore, as provided by § 353.48(b) of the Commerce Regulations, a cash deposit of 70 percent, based on the margin calculated during the original

fair value investigation as best evidence, shall be required on all shipments of pig iron from East Germany entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary, Import Administration.

September 15, 1981.

[FR Doc. 81-27304 Filed 9-17-81; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Louis Scarpuzzi Enterprises; Receipt of Amended Application for Permit

On July 29, 1981, Notice was published in the Federal Register (46 FR 38737) that an application had been filed with the National Marine Fisheries Service by Louis Scarpuzzi Enterprises, 339 Riverside Drive, Fort Myers, Florida 33905(P76E) for a permit to take marine mammals as authorized by the Marine Mammal Protection Act and the regulations governing the taking and importing of marine mammals.

Notice is hereby given that the Applicant has amended his request to increase to four (4) the number of Atlantic bottlenose dolphins for public display.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before October 19, 1981. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: September 15, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-27305 Filed 9-17-81; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

General Counsel; Delegation of Authority

The following delegation of authority has been signed by the Secretary of Commerce:

"Pursuant to the authority vested in the Secretary of Commerce by law, and in accordance with the Ethics in Government Act of 1978 (Pub. L. 95-521, as amended) I delegate to the General Counsel authority to coordinate and administer the ethics program of the Department of Commerce. In the absence of the General Counsel, the Assistant General Counsel for Administration is delegated this authority. This delegation of authority shall be effective on September 18, 1981.

Dated: September 15, 1981.

Marilyn B. Wagner,

Acting Assistant General Counsel for Administration.

[FR Doc. 81-27303 Filed 9-17-81; 8:45 am]

BILLING CODE 3510-BW-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1981; Proposed Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletions from procurement list.

SUMMARY: The Committee has received proposals to delete from Procurement List 1981 a commodity produced by and services provided by workshops for the blind or other severely handicapped.

Comments must be received on or before: October 21, 1981.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to delete the following commodity and services from Procurement List 1981, November 12, 1980 (45 FR 74836):

Class 6230

Flashlight
6230-00-643-3486

SIC 5812

Catered Noon Meals
Armed Forces Examining and Entrance Station
Seattle, Washington

SIC 7641

Furniture Rehabilitation
Sacramento, California, plus 60-mile radius, excluding San Joaquin County.

C. W. Fletcher,

Executive Director.

[FR Doc. 81-27199 Filed 9-17-81; 8:45 am]

BILLING CODE 6820-33-M

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[Docket No. 81-2]

Cable Television Royalty Fee Adjustment Proceeding

Comments of the Motion Picture Association of America, Inc. And Its Member Companies On Institution of Proceeding, Request for Immediate Establishment of Interim Rates, And Request For Ruling On Effective Date Of Final Rates Resulting From Proceeding.

The Copyright Royalty Tribunal (Tribunal) in the Federal Register of August 18, 1981 (46 FR 41840) published notice requesting comments not later than September 24, 1981 on a petition of the National Cable Television Association, Inc. (NCTA) to initiate a cable television royalty fee adjustment proceeding.

The Motion Picture Association of America, Inc. and its member companies (MPAA) on September 14, 1981 filed comments with the Tribunal on the NCTA petition, and in addition requested the Tribunal to adopt certain

interim cable television rates and to make a ruling as to the effective date of any royalty adjustment that may result from a royalty adjustment proceeding. The comments of the MPAA are available for public inspection in the offices of the Tribunal.

The Tribunal now requests comments on the jurisdictional and procedural questions presented by the MPAA request for the adoption of interim cable royalty rates. The Tribunal at the present time is not requesting comments on the substantive aspects of any proposed interim rate schedule, or comments concerning the effective date of any final rates.

Comments limited to the scope of this notice may be submitted not later than October 1, 1981. Reply comments relating to this notice, or directed to comments filed pursuant to the notice of August 18th, may be submitted not later than October 7, 1981.

Comments shall be addressed to the Chairman, Copyright Royalty Tribunal, 1111 20th Street, N.W., Washington, D.C. 20036.

Thomas C. Brennan,

Acting Chairman, Copyright Royalty Tribunal.

[FR Doc. 81-27268 Filed 9-17-81; 8:45 am]

BILLING CODE 1410-01-M

DEPARTMENT OF DEFENSE

Defense Science Board Task Force on Application of High Technology to Ground Forces; Change in Meeting Date

The Defense Science Board Task Force on Application of High Technology to Ground Forces meeting schedule for October 7, 1981 at Fort Lewis, Washington, as published in the Federal Register (Vol. 46, No. 174, dated September 9, 1981, FR Doc. 81-26255, 46 FR 45011) has been changed to October 17, 1981. In all other respects, the original notice cited above remains the same.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

September 15, 1981.

[FR Doc. 81-27300 Filed 9-17-81; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[OFC Case No. 55119-9207-01-12; Docket No. ERA-FC-81-015]

General Motors Corp.; Order, Granting Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Order granting exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On June 18, 1981, General Motors Corporation (GM) filed a petition with the Economic Regulatory Administration (ERA) for an order which would exempt a new major fuel burning installation (MFBI) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act). Title II of FUA prohibits the use of petroleum or natural gas as a primary energy source in certain new MFBI's unless an exemption has been granted by ERA. Criteria for petitioning for exemption from the prohibitions of FUA are contained in 10 CFR Parts 500 and 501, and 10 CFR Part 503, published on June 6, 1980, at 45 FR 38276 and 38302 respectively.

Pursuant to the provisions of FUA and 10 CFR 503.38, ERA hereby grants to GM subject to the terms and conditions specified herein, a permanent fuels mixture exemption as authorized by section 212(d) of the Act and 10 CFR 503.38(d) for the new field-erected boiler, (identified as Boiler No. 1) to be installed at GM's Assembly Division Plant at Lake Orion, Michigan.

In accordance with section 702(a) of FUA, this order shall take effect on November 17, 1981, the 60th calendar day after publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Case Manager, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128-M, Washington, D.C. 20461, Phone (202) 653-3934

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 653-4226

Christina Simmons, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B-178, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-2967

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available for inspection upon request at: ERA, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, 8:00 a.m.-4:30 p.m.

SUPPLEMENTARY INFORMATION:

Eligibility and evidentiary requirements governing the permanent fuels mixture exemption, as authorized under section 212(d) of FUA, are set forth at 10 CFR 503.38. Under section 212(d), a certification alternative is available for MFBI's which will use a mixture containing less than 25 percent petroleum or natural gas, providing simplified evidentiary requirements for such facilities. GM has petitioned for a permanent exemption from the prohibition of Title II of FUA for its Boiler No. 1, under 10 CFR 503.38(d), based upon use of a mixture of coal and natural gas containing less than 25 percent natural gas for the unit.

In accordance with 10 CFR 501.3(d), ERA published notice of its acceptance of GM's petition in the Federal Register on July 21, 1981, at 46 FR 37542. Additionally, ERA staff examined the aforementioned certifications made by GM in its petition and determined that the petition fulfills the requirements of 10 CFR 503.38(d). A Tentative Staff Analysis was prepared recommending that ERA issue an order granting GM the requested exemption for the boiler, the availability of which was noticed in the Federal Register concurrently with the Notice of Acceptance. The combined notice provided for a 45-day comment period during which interested persons could submit written comments and request a public hearing on the petition for exemption or the Tentative Staff Analysis. That period expired on September 4, 1981. Comments were filed only by GM. No public hearing was requested.

In its comments to ERA, GM contended that the amount of fuel excluded from the definition of primary energy source by Section 103(a)(15) of FUA is in addition to any fuel that may be used in Boiler No. 1, under a fuels mixture exemption.

ERA believes that the statement in the Tentative Staff Determination concerning the amounts of fuel to be allowed under Section 103(a) (15)(A) of the Act as an exclusion from the definition of primary energy source, where a fuels mixture exemption has been granted, is consistent with the purposes of the Act and within the

authority of ERA. Section 103(a)(15) provides that the minimum amounts which are excluded are subject to rules prescribed by the Secretary. Under the current rule implementing FUA, in connection with the definition of "Primary energy source" (10 CFR 500.2), ERA has set the excluded amount of zero where a fuels mixture exemption has been granted. The footnote to the definition provides: "For purposes of subparagraph (1), no fuels will be excluded from the definition of primary energy source where a mixtures exemption has been granted under Parts 503 or 504 of these regulations. The minimum amount of natural gas or petroleum provided by a mixtures exemption to maintain reliability of operation, consistent with maintaining a reasonable level of fuel efficiency is in lieu of the minimum amount required for unit ignition, start-up, testing, flame stabilization, and control uses." It should be noted that the rule does not include, as part of the exempt fuel covered by a mixtures exemption, any amount of fuel which could otherwise be excluded from the definition of primary energy source. Whenever, with respect to exemptions other than a fuels mixture, a given amount of excluded fuel is authorized (for example the 15 percent presumptive exclusion provided for in the final rule) it is in addition to the fuel that is exempt as a primary energy source. ERA has determined that this regulatory treatment (i.e., to set the amount of fuel which could be excluded under Section 103(a)(15) at zero) where a mixtures exemption is granted, best accomodates the purposes of the Act in minimizing the amounts of petroleum and natural gas to be used for congruent purposes.

As required by section 701(f) and (g) of the Act, ERA provided a copy of GM's petition to the Environmental Protection Agency (EPA) and the Federal Trade Commission (FTC) for their comment. The Acting Regional Administrator, EPA, Region V, Chicago, Illinois, filed written comment on the petition and Tentative Staff Analysis for the Lake Orion, Michigan, installation. In the opinion of EPA, Region V, the proposed exemption does not present any air quality problems and therefore, they have no objection to the granting of the requested exemption. No comments were received from FTC.

Decision and Order

Based upon review of the entire record of this proceeding, ERA has determined that GM has satisfied the certification requirements of 10 CFR 503.38(d). Therefore, pursuant to section 212(d) of the Act, and subject to the terms and conditions stated below, ERA hereby grants GM a permanent fuels mixture exemption for the new Boiler No. 1 to permit the use of natural gas in a mixture with coal in that unit. As specified in the terms and conditions below, the total amount of natural gas used in the exempted unit shall not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in that unit. In granting this exemption, ERA has taken into account the purposes for which the minimum percentage of petroleum and natural gas provided by a fuels mixture exemption is to be used, i.e., to maintain reliability of operations, consistent with maintaining a reasonable level of fuel efficiency. Accordingly, ERA will not exclude from the definition of primary energy source any fuel used in the new boiler for the purposes of unit ignition, start-up, testing, flame stabilization, and control uses.

Terms and Conditions

Section 214(a) of FUA gives ERA the authority to attach terms and conditions to any order granting an exemption which are appropriate and consistent with the purposes of the Act. By petitioning for an exemption under the provisions of 10 CFR 503.38(d), GM, in accordance with 10 CFR 503.38(e), agreed, upon grant of the exemption, to the standard terms and conditions specified in that subsection. Accordingly, such terms and conditions as enumerated below, are attached to this order granting the requested exemption.

(1) The amount of natural gas to be used in a mixture with alternate fuel in the boiler will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the unit.

(2) Prior to operation of the boiler, GM will secure all applicable environmental permits and approvals pursuant to, but not limited to the following: Clean Air Act, Clean Water Act, Rivers and Harbors Act, Coastal Zone Management Act and the Resource Conservation and Recovery Act.

Reporting Requirements

In addition to the above terms and conditions, GM must, pursuant to 10 CFR 503.38(g), upon grant of this exemption, certify to ERA the date the boiler is first operated under the provisions of this order, and must, annually thereafter at not later than 30 days after each anniversary of that date, file with ERA a certification that the amount of natural gas used in the boiler during the preceeding year did not exceed 25 percent of the total annual Btu heat input of the primary energy sources of that MFBI. Such certifications shall be executed by a duly authorized representative of GM.

On August 11, 1980, DOE published in the Federal Register (45 FR 53199) a notice of proposed amendments to guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the guidelines, the granting or denial of certain FUA permanent exemptions, including the permanent fuels mixture exemption by certification in which the use of petroleum or natural gas in a mixture with an alternate fuel(s) will not exceed 25 percent of the exempted MFBI's total annual Btu heat input of its primary energy sources, were identified as classes of actions which normally do not require the preparation of an Environmental Impact Statement or an Environmental Assessment.

This classification raises a rebuttable presumption that the granting or denial of these exemptions will not significantly affect the quality of the human environment. GM has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new MFBI under exemption. The Environmental Checklist completed and certified to by GM pursuant to 10 CFR 503.15(b) has been reviewed by DOE's Office of Environment, with consultation from the Office of the General Counsel, and it has been determined that GM's responses to the questions therein indicate that the operation of the boiler under this exemption will not have significant impact on those areas regulated by specified laws that impose consultation requirements on DOE, and otherwise affirm the applicability of the categorical exclusion to these FUA actions. No contrary information has come to the attention of ERA during the proceeding on GM's petition. Therefore, no additional environmental review is deemed to be required.

Effectiveness of Order:

The exemption granted by this order shall become effective on the 60th calendar day after the date of publication of this order in the Federal Register (November 17, 1981).

Judical Review:

Pursuant to section 702(c) of the Act, any person aggrieved by this order may at any time before the 60th calendar day after the date of publication of this Order file a petition for judicial review thereof in accordance with the procedures outlined in 10 CFR 501.69.

Issued in Washington, D.C., on September 14, 1981.

Robert L. Davies,

Director, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-27233 Filed 9-17-81; 8:45 am]

BILLING CODE 6450-01-M

[OFC Case No. 55119-9206-01-12; Docket No. ERA-FC-81-016]

General Motors Corp; Order Granting Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Order granting exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On June 18, 1981, General Motors Corporation (GM) filed a petition with the Economic Regulatory Administration (ERA) for an order which would exempt a new major fuel burning installation (MFBI) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8302 *et seq.*, (FUA or the Act). Title II of FUA prohibits the use of petroleum or natural gas as a primary energy source in certain new MFBI's unless an exemption has been granted by ERA. Criteria for petitioning for exemption from the prohibitions of FUA are contained in 10 CFR Parts 500 and 501, and 10 CFR Part 503, published on June 6, 1980, at 45 FR 38276 and 38302 respectively.

Pursuant to the provisions of FUA and 10 CFR 503.38, ERA hereby grants to GM subject to the terms and conditions specified herein, a permanent fuels mixture exemption as authorized by section 212(d) of the Act and 10 CFR 503.38(d) for the new field-erected boiler, (identified as Broiler No. 1) to be installed at GM's Assembly Division Plant at Wentzville, Missouri.

In accordance with section 702(a) of FUA, this order shall take effect on November 17, 1981, the 60th calendar day after publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Case Manager, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128-M, Washington, D.C. 20461, Phone (202) 653-3934

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 653-4226

Christina Simmons, Office of the General Counsel, Department of Energy, Forrestall Building, Room 6B-178, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-2967

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available for inspection upon request at: ERA, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, 8:00 a.m.-4:30 p.m.

SUPPLEMENTARY INFORMATION:

Eligibility and evidentiary requirements governing the permanent fuels mixture exemption, as authorized under section 212(d) of FUA, are set forth at 10 CFR 503.38. Under section 212(d), a certification alternative is available for MFBI's which will use a mixture containing less than 25 percent petroleum or natural gas, providing simplified evidentiary requirements for such facilities. GM has petitioned for a permanent exemption from the prohibitions of Title II of FUA for its Boiler No. 1, under 10 CFR 503.38(d), based upon use of a mixture of coal and natural gas containing less than 25 percent natural gas for the unit.

In accordance with 10 CFR 501.3(d) ERA published notice of its acceptance of GM's petition in the Federal Register on July 21, 1981, at 46 FR 37542. Additionally, ERA staff examined the aforementioned certifications made by GM in its petition and determined that the petition fulfills the requirements of 10 CFR 503.38(d). A Tentative Staff Analysis was prepared recommending that ERA issue an order granting GM the requested exemption for the boiler, the availability of which was notice in the Federal Register concurrently with the Notice of Acceptance. The combined notice provided for a 45-day comment period during which interested persons could submit written comments and request a public hearing on the petition for exemption or the Tenatative Staff Analysis. That period expired on September 4, 1981. Comments were filed only by GM. No public hearing was requested.

In its comments to ERA, GM contended that the amount of fuel excluded from the definition of primary energy source by Section 103(a)(15) of FUA is in addition to any fuel that may be used in Boiler No. 1, under a fuels mixture exemption.

ERA believes that the statement in the Tentative Staff Determination concerning the amounts of fuel to be allowed under Section 103(a)(15)(A) of the Act as an exclusion from the definition of primary energy source, where a fuels mixture exemption has been granted, is consistent with the purposes of the Act and within the authority of ERA. Section 103(a)(15) provides that the minimum amounts which are excluded are subject to rules prescribed by the Secretary. Under the current rule implementing FUA, in connection with the definition of "Primary energy source" (10 CFR 500.2), ERA has set the excluded amount at zero where a fuels mixture exemption has been granted. The footnote to the definition provides: "For purposes of subparagraph (1), no fuels will be excluded from the definition of primary energy source where a mixtures exemption has been granted under Parts 503 or 504 of these regulations. The minimum amount of natural gas or petroleum provided by a mixture exemption to maintain reliability of operation, consistent with maintaining a reasonable level of fuel efficiency is in lieu of the minimum amount required for unit ignition, start-up, testing, flame stabilization, and control uses." It should be noted that the rule does not include, as part of the exempt fuel covered by a mixture exemption, any amount of fuel which could otherwise be excluded from the definition of primary energy source. Whenever, with respect to exemptions other than a fuels mixture, a given amount of excluded fuel is authorized (for example the 15 per cent presumptive exclusion provided for in the final rule) it is in addition to the fuel that is exempt as a primary energy source. ERA has determined that this regulatory treatment (i.e., to set the amount of fuel which could be excluded under Section 103(a)(15) at zero) where a mixture exemption is granted, best accommodates the purposes of the Act in minimizing the amounts of petroleum and natural gas to be used for congruent purposes.

As required by section 701(f) and (g) of the Act, ERA provided a copy of GM's petition to the Environmental Protection Agency (EPA) and the Federal Trade Commission (FTC) for their comment. No comments were received from either EPA or FTC.

Decision and Order

Based upon review of the entire record of this proceeding, ERA has determined that GM has satisfied the certification requirements of 10 CFR 503.38(d). Therefore, pursuant to section 212(d) of the Act, and subject to the terms and conditions stated below, ERA hereby grants GM a permanent fuels mixture exemption for the new Boiler No. 1 to permit the use of natural gas in a mixture with coal in that unit. As

specified in the terms and conditions below, the total amount of natural gas used in the exempted unit shall not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in that unit. In granting this exemption, ERA has taken into account the purposes for which the minimum percentage of petroleum and natural gas provided by a fuels mixture exemption is to be used, i.e., to maintain reliability of operations, consistent with maintaining a reasonble level of fuel efficiency. Accordingly, ERA will not exclude from the definition of primary energy source any fuel used in the new boiler for the purposes of unit ignition, start-up, testing, flame stabilization, and control uses.

Terms and Conditions

Section 214(a) of FUA gives ERA the authority to attach terms and conditions to any order granting an exemption which are appropriate and consistent with the purposes of the Act. By petitioning for an exemption under the provisions of 10 CFR 503.38(d), GM, in accordance with 10 CFR 503.38(e), agreed, upon grant of the exemption, to the standard terms and conditions specified in that subsection. Accordingly, such terms and conditions as enumerated below, are attached to this order granting the requested exemption.

(1) The amount of natural gas to be used in a mixture with alternate fuel in the boiler will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the unit.

(2) Prior to operation of the boiler, GM will secure all applicable environmental permits and approvals pursuant to, but not limited to the following: Clean Air Act, Clean Water Act, Rivers and Harbors Act, Coastal Zone Management Act and the Resource Conservation and Recovery Act.

Reporting Requirements

In addition to the above terms and conditions, GM must, pursuant to 10 CFR 503.38(g), upon grant of this exemption, certify to ERA the date the boiler is first operated under the provisions of this order, and must, annually thereafter at not later than 30 days after each anniversary of that date, file with ERA a certification that the amount of natural gas used in the boiler during the preceding year did not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the MFBI. Such certifications shall be executed by a duly authorized representative of GM.

On August 11, 1980, DOE published in the Federal Register (45 FR 53199) a notice of proposed amendments to guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the guidelines, the granting or denial of certain FUA permanant exemptions, including the permanent fuels mixture exemption by certification in which the use of petroleum or natural gas in a mixture with an alternate fuel(s) will not exceed 25 percent of the exempted MFBI's total annual Btu heat input of its primary energy sources, were identified as classes of actions which normally do not require the preparation of an Environmental Impact Statement or an Environmental Assessment.

This classification raises a rebuttable presumption that the granting or denial of these exemptions will not significantly affect the quality of the human environment. GM has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new MFBI under exemption. The Environmental Checklist completed and certified to by GM pursuant to 10 CFR 503.15(b) has been reviewed by DOE's Office of Environment, with consultation from the Office of the General Counsel, and it has been determined that GM's responses to the questions therein indicate that the operation of the boiler under this exemption will not have significant impact on those areas regulated by specified laws that impose consultation requirements on DOE, and otherwise affirm the applicability of the categorical exclusion to these FUA actions. No contrary information has come to the attention of ERA during the proceeding on GM's petition. Therefore, no additional environmental review is deemed to be required.

Effectiveness of Order

The exemption granted by this order shall become effective on the 60th calendar day after the date of publication of this order in the Federal Register (November 17, 1981).

Judicial Review

Pursuant to section 702(c) of the Act, any person aggrieved by this order may at any time before the 60th calendar day after the date of publication of this Order file a petition for judicial review thereof in accordance with the procedures outlined in 10 CFR 501.69.

Issued in Washington, D.C., on September 14, 1981.

Robert L. Davies,
Director, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-27234 Filed 9-17-81; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ERA-FC-81-010; OFC Case No. 56358-9016-01-12, 56358-9016-02-12]

Phillips Petroleum Co.; Availability of Tentative Staff Analysis

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of availability of tentative staff analysis.

SUMMARY: On April 9, 1981, Phillips Petroleum Company (Phillips) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order exempting two new major fuel burning installations (MFBI's) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, (FUA or the Act), which prohibits the use of petroleum and natural gas as a primary source in certain new MFBI's unless an exemption for such use has been granted by DOE. Pertinent criteria and procedures for petitioning for an exemption from the prohibitions of FUA are contained in 10 CFR Parts 500 and 503 published on June 6, 1980, at 45 FR 38276 and 38302, respectively.

Phillips is seeking permanent exemptions to burn natural gas in a mixture with regenerator flue gases (containing carbon monoxide, CO) in two field-erected CO boilers to be constructed at its Borger, Texas refinery.

ERA accepted the petition on May 30, 1981, and published notice of its acceptance, together with a statement of the reasons set forth in the petition for requesting the exemptions, in the Federal Register on June 9, 1981 (46 FR 30525). Publication of the notice commenced a 45-day public comment period pursuant to section 701 of FUA which expired July 24, 1981. No comments were received.

The public file containing a copy of the Tentative Staff Analysis and other documents and supporting materials on this proceeding is available upon request at: ERA, 2000 M Street, NW., Room B-110, Washington, D.C., 20461, Monday through Friday, 8:00 a.m.–4:30 p.m.

ERA will issue a final order granting or denying the petition for permanent exemptions from the prohibitions of the Act within six months after the end of the public comment period provided for

in this notice, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extensions, will be published in the Federal Register.

DATE: Written comments on the Tentative Staff Analysis are due on or before October 2, 1981. A request to have DOE convene a public hearing must be made within the same period.

ADDRESS: Fifteen copies of written comments shall be submitted to the Department of Energy, DOE Case Control Unit, Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C., 20461. Docket Number ERA-FC-81-010 should appear on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, 2000 M Street. NW., Room B-110, Washington, D.C. 20461, (202) 653-4055

Ellen Russell, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, (202) 653-4477

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, (202) 653-4226

Marilyn Ross, Attorney, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2967

SUPPLEMENTARY INFORMATION: Phillips proposes to install two carbon monoxide (CO) boilers. CO Boiler 29 will have a design heat input rate of 497 million Btu's per hour. CO Boiler 40 will have a design heat input rate of 500 million Btu's per hour. Each unit will be capable of generating 350,000 pounds of steam per hour. The fuel Phillips proposes for use in the two CO boilers is a mixture of approximately 18.6 percent regenerator flue gas (185.7 million Btu/hr) and 81.4 percent natural gas (812.1 million Btu/hr). The CO containing flue gas produced at Phillips Borger, Texas refinery with a heating value of 11 Btu's per cubic foot has been determined by ERA to be an alternate fuel.

In addition to the demonstration by a petitioner that he proposes to use an alternate fuel with petroleum or natural gas in a mixture, he must also demonstrate to the satisfaction of ERA, pursuant to 10 CFR 503.38(a)(2), that the amount of petroleum or natural gas proposed to be used in the mixture will not exceed the minimum percentage of the total annual Btu heat input of the primary energy sources needed to maintain operational reliability of the unit consistent with maintaining a reasonable level of fuel efficiency.

Phillips stated that the minimum percentage of natural gas needed to maintain satisfactory operation of the CO boilers is 75.55 percent for Unit 29 and 77.25 percent for Unit 40. ERA has verified these calculations. Phillips requested however, that they be allowed to burn sufficient natural gas to install and operate the CO boilers at a combined capacity of 700,000 pounds of steam per hour. Additionally, Phillips requested that during the time that one or both FCC Units are not operating, for whatever cause, and regeneration gases are not available, that it be permitted to burn natural gas in the two CO Boilers in amounts necessary to meet the refinery's steam requirements.

ERA currently does not have the authority to grant a fuel mixtures exemption where the amount of petroleum or natural gas proposed to be used in the mixture exceeds the minimum percentage of the total Btu heat input of the primary energy sources of such powerplant or installation consistent with maintaining a reasonable level of fuel efficiency. Therefore, ERA staff has prepared a Tentative Staff Analysis recommending that the exemption be granted, subject to the term and condition recommended below, to permit the use of natural gas only in the amounts which ERA has verified are necessary to complete combustion of the regeneration gases in the CO boilers, i.e., 75.55 percent for Unit 29 and 77.25 percent for Unit 40.

Additionally, the ERA staff is sympathetic with Phillips's desires to continue the operation of the CO Boilers using all natural gas during those periods when a sufficient supply of regeneration gases are not being produced, however, ERA does not have the authority to grant as a provision of a fuels mixture exemption, the use of natural gas or pertoleum in excess of that required to maintain the exempted unit's operational reliability when fired with the fuels mixture. Therefore, the ERA staff recommends that Phillips' request to use natural gas in CO Boilers 29 and 40 during those periods when their respective FCC Units are shutdown, be denied.

Recommended Term and Condition

Section 214(a) of FUA gives ERA the authority to attach terms and conditions to any order granting an exemption which are appropriate and consistent with the purposes of the Act. Based upon its analysis of Phillips' petition, the ERA staff recommends that the following term and condition be attached to any order which would grant Phillips the requested exemptions:

(1) The amount of natural gas burned in a mixture with the regeneration gases shall not exceed:

For CO Boiler 29, 75.55 percent of the unit's total annual Btu heat input; and

For CO Boiler 40, 77.25 percent of the unit's total annual Btu heat input.

Reporting Requirement

In addition to the above term and condition, Phillips shall, pursuant to 10 CFR 503.38(g), submit to the Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Room 3214, 2000 M Street, NW., Washington D.C. 20461, the following:

(a) A certification of the date(s) CO Boilers 29 and 40 are first operated under the provisions of this order; and

(b) Within 30 days from each anniversary date(s) of commencement of operation of CO Boilers 29 and 40, as reported pursuant to (a) above, an annual, certified report of the types and quantities of fuels used in each boiler during the preceding year. The following report format shall be used:

CO Boiler No.	Fuel type	Amount burned (1,000 ft.³)	Btu value (MM Btu's/HR)	Percent of annual fuel consumption

Each certification shall be executed by a duly authorized representative of Phillips. OFC Case No. 56358-9106-01-12 (for CO Boiler 29) and OFC Case No. 56358-9106-02-12 (for CO Boiler 40) shall be cited on each certification.

National Environmental Policy Act of 1969 (NEPA) Review: On the basis of the analysis provided by the Office of Fuels Conversion, and reviewed by the Office of Environmental Protection, Safety, and Preparedness, with consultation from the Office of General Counsel, the Department of Energy has concluded that the granting of these exemptions will not be a major Federal action significantly affecting the quality of the human environment, within the meaning of NEPA. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

The Tentative Staff Analysis does not constitute a decision by ERA to grant the exemptions requested. Such a decision will be made in accordance with 10 CFR 501.68 on the basis of the entire record of this proceeding, including any comments received on Tentative Staff Analysis.

Issued in Washington, D.C., on September 14, 1981.

Robert L. Davies,

Director, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-27235 Filed 9-17-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals Issuance of Proposed Decisions and Orders; August 3 through August 14, 1981

During the period of August 3 through August 14, 1981, 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 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,

Director, Office of Hearings and Appeals.

September 14, 1981.

Edgington Oil, Company, Inc. Washington, D.C. BEX-0220 crude oil

Edgington Oil Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would result in the issuance of additional entitlement to Edgington to offset the cost of entitlements obligations incurred because the firm had purchased crude oil to increase its permanent inventory following the expansion of its refinery capacity. On March 10, 1981, the Department of Energy issued a Proposed Decision and Order that determined that the exception request be granted in part. However, on August 12, 1981, the DOE issued a Supplemental Order reversing the initial proposed determination and tentatively concluded that the Edgington request be denied.

Placid Oil Company, Washington, D.C., BEE-1584, crude oil

On January 6, 1981, Placid Oil Company (Placid) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit Placid to determine the price of crude oil produced and sold from a certain production unit without regard to a cumulative deficiency which accrued during the months of September, October and November 1980. On August 14, 1981, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Tricentennial Energy Corporation, Washington, D.C., BEE-1662, reporting requirements

Tricentennial Energy Corporation filed an Application for Exception from the requirement that the firm prepare and submit Form EIA-9A, No. 2 Distillate Price Monitoring Report. In considering the request, the DOE found that the firm had not demonstrated that it would experience a serious hardship as a result of the requirement that it submit the form, and that the information provided by the firm would be relevant to the purposes of Form EIA-9A. Accordingly, on August 11, 1981 the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 81-27301 Filed 9-17-81; 8:45 am]

BILLING CODE 6450-01-M

Southeastern Power Administration

Order Confirming and Approving Power Rates on an Interim Basis of Kerr-Philpott Projects

AGENCY: Southeastern Power Administration (SEPA), Energy.

ACTION: Notice of Approval on Interim Basis of Kerr-Philpott Projects' Rates.

SUMMARY: On 9-14-81, the Assistant Secretary for Conservation and Renewable Energy confirmed and approved, on an interim basis, the extension of two existing rate schedules and an adjustment and extension of the other rate schedule for Kerr-Philpott Projects' power. The rates were approved on an interim basis through September 30, 1982, and are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

DATES: Approval of rates on interim basis is effective on October 1, 1981.

FOR FURTHER INFORMATION CONTACT:

Leon Jourolmon, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635.

John J. DiNucci, Office of Power Marketing Coordination, Department of Energy, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission by Order issued January 29, 1981, in Docket No. EF80-3041 confirmed and approved Wholesale Power Rate Schedules KP-1-B, KP-2-B and JHK-1-B applicable to Kerr-Philpott Projects' power for a period ending September 30, 1981. Rate Schedules KP-1-B and KP-2-B have been extended and JHK-1-C replaces JHK-1-B.

Issued in Washington, D.C., September 14, 1981.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[Rate Order No. SEPA-11]

Southeastern Power Administration—Kerr-Philpott Projects' Power Rates; Order Confirming and Approving Power Rates on an Interim Basis

September 14, 1981.

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95-91, the functions of the Secretary of the interior and the Federal Power Commission under Section 5 of the Floor Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (SEPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Due to a Department of Energy organizational realignment, Delegation Order No. 0204-33 was amended, effective March 19,

1981, to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy. This rate order is issued pursuant to the delegation to the Assistant Secretary for Conservation and Renewable Energy.

Background

Power from the Kerr-Philpott Projects is presently sold under Wholesale Power Rate Schedules KP-1-B, KP-2-B, and JHK-1-B. These rates were confirmed and approved by the Federal Power Commission on February 18, 1976, for a period ending June 30, 1980, and extended by the Federal Energy Regulatory Commission on January 29, 1981, for a period ending September 30, 1981. SEPA is in the process of developing a new written power marketing policy for the Kerr-Philpott Projects and has requested that I approve a one-year extension of two of the rate schedules and an adjustment to the other rate schedule to allow time to finalize the policy, renegotiate expiring contracts and permit applicable rates appropriate to such revised policy to be developed, confirmed and approved, and placed in effect.

Public Notice and Comment

SEPA prepared a Power Repayment Study in June 1981 for the Kerr-Philpott Projects which showed that an increase in existing rates was not necessary to produce revenues sufficient to meet cost recovery criteria. Based on this Repayment Study, it was proposed to extend two of the rate schedules until September 30, 1982. An additional wheeling charge, applicable only to the customers who purchase power under JHK-1-B rate schedule, was not included in the Repayment Study. However, a revised rate schedule was drafted to pass through the increased wheeling costs to affected customers.

Opportunities for public review and comments on the extension of rates and proposed increased power rate were announced by Notice published in the Federal Register on June 5, 1981, 46 FR 108, and all customers were notified by mail. A Public Comment and Public Information Forum was held in Raleigh, North Carolina on July 9, 1981, where an opportunity for oral presentation of views was afforded. Written comments were invited by the Notice through August 14, 1981. A transcript of the Public Comment Forum was made.

Discussion

System Repayment

SEPA's System Power Repayment Study of June 1981 is basically an update of its system Repayment Study dated March 1975, upon which existing rates are predicated. The March 1975 repayment study included estimated costs through September 30, 1980, which were less than the costs actually experienced. Estimated future costs are slightly higher than the costs estimated in 1975; however, the Repayment Study continues to show that the revenues at present rate levels are adequate to recover all costs required by the repayment criteria.

There is one item of cost, however, which was not included in the Repayment Study and that is an increased annual wheeling charge of $200,000 required by Carolina Power & Light Company. An adjusted rate schedule appropriately responds to this added cost.

Rate Design

Because the rates are expected to be in effect for only a one-year period, the KP-1-B, and KP-2-B rates are being extended and the added wheeling charge from CP&L is being passed directly through to the affected customers. The adjusted Rate Schedule JHK-1-C is identical to the present rate schedule except a "wheeling charge" is added. The monthly wheeling charge to cover the additional cost is $0.56 per kilowatt of contract demand.

Environmental Impact

SEPA has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded with Departmental concurrence that, because the increased rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rates including studies, public comment forum transcript, and other supporting material are available for public review in the offices of Southeastern Power Administration, Samuel Elbert Building, Elberton, Georgia 30635, and in the Office of the Director of Power Marketing Coordination, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Submission to the Federal Energy Regulatory Commission

The rates herein confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period ending no later that September 30, 1981.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective October 1, 1981, attached Wholesale Power Rate Schedule KP-1-B, KP-2-B and JHK-1-C. The rate schedules shall remain in effect on an interim basis through September 30, 1982, unless such period is extended or until the FERC confirms and approves them or substitute rate schedules on a final basis.

Issued at Washington, D.C., this 14th day of September, 1981.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) within a 150 mile radius of the John H. Kerr Project, purchasing power generated at the John H. Kerr and Philpott Projects in wholesale quantities under appropriate contracts and served through the facilities of the Virginia Electric and Power Company (hereinafter called the Company).

Applicability

This rate schedule shall be applicable to firm power and accompanying energy generated at the John H. Kerr and Philpott Projects and to deficiency energy purchased by the Government from the Company, purchased in wholesale quantities under appropriate contracts for a specified number of kilowatts of capacity and shall be applied to each customer's system consisting of one or more delivery points.

Character of Service

The electric capacity and energy supplied hereunder will be 3-phase alternating current at a nominal frequency of 60 Hertz. The voltage of delivery will be maintained within the limits established by the State Regulatory Commission.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.25 per kilowatt of contract demand.

Energy Charge: 5.00 mills per kilowatt-hour.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a total amount annually of 5,000 kilowatt-hours per kilowatt of contract demand prorated on an equal daily amount throughout the year. The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Purchaser shall at its own expense provide, install and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service Interruption

When energy delivery to the Customer's system is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

July 1, 1975.

Wholesale Power Rate Schedule KP-2-B

Availability

This rate schedule shall be available to the Carolina Power and Light Company and the Virginia Electric and Power Company (either one of which is hereinafter called the Company).

Applicability

This rate schedule shall be applicable to electric capacity and energy generated at the John H. Kerr and Philpott Projects (hereinafter called the Projects) and sold under appropriate contracts between the Government and the Company.

Character of Service

Electric capacity and energy delivered to the Company will be 3-phase alternating current at a nominal frequency of 60 Hertz delivered at points of delivery specified by appropriate contract.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.25 per kilowatt per month for dependable capacity made available to the Company for their own use.

Energy Charge: An amount for dump energy equal to eighty percent (80%) of the calculated saving in the cost of fuel for the Company's operating generating units due to the generation avoided therein by the delivery of such dump energy: *Provided,* That the procedures to determine saving in the cost of fuel will be agreed upon from time to time by the Government and the Company.

Billing Month

End-of-month meter readings shall be made at 12:00 midnight at the end of the calendar month where meters are located in continuously attended power plants and substations.

Service Interruptions

When the dependable capacity available to the Company is reduced or interrupted for 1 hour or longer during on-peak hours and such reduction or interruption is not due to conditions on the Company's system, or in the case of Philpott, the Appalachian Power Company's or the Company's system, or agreed to outages, the dependable capacity to be paid for by the Company for that month shall be reduced for billing purposes for each on-peak hour (the nearest number of whole hours) that dependable capacity available to the Company is reduced or interrupted by an amount equal to one/(number of on-peak hours in the month) times such reduction in kilowatts of dependable capacity. In the event such reduction in dependable capacity to be paid for by the Company should be greater than the dependable capacity sold to the Company in any month, any such excess shall be applied to the dependable capacity sold to the Company in subsequent months. If such reduction or interruption results in a total delivery of energy in that month to or for the account of the Company's system by the Government amounting to less than the total declared available, the declaration of energy for that month shall be reduced for accounting purposes to the amount actually delivered. On-peak hours shall be the hours between 8:00 a.m. and 10:00 p.m. on all days except Sunday.

Power Factor

The Company shall take power and energy from the Government at such power factor as will best serve the Company's system from time to time; provided, that the Compnay shall not impose a power factor of less than .85 lagging on the Government's facilities which requres operation contrary to good operating practice or results in overload or impairment of such facilities or unreasonably interferes with the delivery of power and energy by the Government to its other customers.

Termination of Contract

The Company shall pay the Government 5.00 mills per kilowatt-hour for energy remaining in the energy bank and for energy remaining as a net balance in the storage account at the termination of the contract between the Government and the Company.

July 1, 1975.

Wholesale Firm Power Rate Schedule JHK-1-C

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) within a 165 mile radius of the existing interconnection point between the Virginia Electric and Power Company and the Carolina Power and Light Company (hereinafter called the Company) at the Virginia-North Carolina State line in the vicinity of John H. Kerr Project (hereinafter called the Project), purchasing power from the Project in wholesale quantities under appropriate contracts and served through the facilities of the Company.

Applicability

This rate schedule shall be applicable to Project firm power and accompanying energy, purchased in wholesale quantities under appropriate contracts for a specified number of kilowatts of capacity and shall be applied to each

Customer's system consisting of one or more delivery points.

Character of Service

Electric capacity and energy supplied hereunder will be 3-phase alternating current at a nominal frequency of 60 Hertz delivered at existing or future delivery points on the Company's transmission and distribution system.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.25 per kilowatt of contract demand.

Energy Charge: 5.00 mills per kilowatt-hour.

An additional rate for wheeling service provided under this rate schedule shall be:

Wheeling Charge: $0.56 per kilowatt of contract demand.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy To Be Furnished by the Government

(a) If the Customer does not own or operate generating facilities (other than mobile generating equipment used for emergency purposes), the Government will supply Project energy to such Customer each month, to the extent that such energy is available, based on the ratio of the Customer's energy requirements (determined by multiplying the Customer's total energy requirements at all points of delivery located within 165 miles of the existing interconnection point between the Company and VEPCO at the Virginia-North Carolina State line in the vicinity of the Project by the ratio of the Customer's contract demand to its maximum 30-minute integrated measured demand for that month at said points of delivery) to the sum of the individual energy requirements of all such Customers purchasing under this rate schedule determined on this same basis. (The maximum 30-minute integrated measured demand of the Customer for the month shall be determined by adding together the highest 30-minute integrated measured demand at each point of delivery located within 165 miles of the aforementioned interconnection point, exclusive of abnormal nonrecurring demands resulting from transfer of loads from one point of delivery to another where such transfers are previously approved by the Company.)

(b) If the Customer owns or operates generating facilities (other than mobile generating equipment used for emergency purposes), the Government will supply Project energy each month in an amount determined by multiplying the ratio of the Customer's contract demand to the dependable capacity made available to the Company's system from the Project by 100/106 of the total energy (exclusive of dump energy) declared and made available to the Company's system from the Project.

Energy Accounting

For the purposes of energy accounting an energy bank shall be maintained, and the Government shall keep the official record of such account. In any month in which the total Project energy (exclusive of dump energy) declared and made available by the Government to the Company exceeds the energy accounted for in such month as accompanying the capacity required to meet the contract demands of the Government to preference customers, increased by six percent (6%) to provide for losses in transmission, such remaining energy shall be credited to the energy bank. Energy stored in this energy bank shall be used in subsequent months to supply to the extent possible preference customer energy requirements not supplied by energy declared and made available from the Project during such months. Withdrawals of energy from the energy bank shall reduce the bank account and shall be accounted for as Project energy available to be transmitted by the Company to the preference customers for the account of the Government.

In those months when Project energy (including energy available from the energy bank) multiplied by 100/106 is equal to or more than the total energy requirements of preference customers of the Government, all such energy requirements shall be deemed to have been supplied from the Project and transmitted by the Company for the account of the Government. In those months when Project energy (including energy available from the energy bank)multiplied by 100/106 is less than the total energy requirements of preference customers of the Government, the quantity of energy which shall be deemed to have been transmitted by the Company for the account of the Government shall be 100/106 of the total Project and bank energy available for transmission. In such months each preference customer of the Government that owns or operates generating facilities (other than mobile generating equipment used for emergency purposes) shall receive a portion of the available energy that results from multiplying the ratio of each such Customer's contract demand to the dependable capacity made available to the Company's system by 100/106 of the total energy declared and made available to the Company's system (excluding energy available from the energy bank), and each of the other preference customers of the Government shall receive a proportionate part of the remaining available energy based on the ratio of such Customer's individual energy requirements (determined by multiplying each such Customer's total energy requirements at all points of delivery by the ratio of its contract demand to its maximum 30-minute integrated measured demand for the month at said points of delivery) to the sum of the individual energy requirements of all such preference customers determined on this same basis.

Billing Month

End-of-month meter readings for billing under this schedule shall be made on the last regular working day of each month or as near thereto as may be practicable.

Conditions of Service

(a) *Parallel Operation:* The Government may condition service to the Customer upon payment by the Customer to the Company of the cost of such facilities, including special meters, as are made necessary by the Customer's operation of any generating facilities in parallel with the Company's system and in such event will require the operation and maintenance of such facilities by the Customer in accordance with good operating practices.

(b) *Energy Scheduling:* If the Customer owns or operates generating facilities (other than mobile generating equipment used for emergency purposes), it shall schedule and receive its proportionate share of the minimum monthly declarations of energy as provided in the contract between the Government and the Company dated March 30, 1973, in quantities reasonably distributed over the period of declaration. In the event energy in addition to minimum is available at the Project, the Customer shall receive its proportionate share of any excess energy so declared during the period for which it is declared.

(c) *Service Interruption:* When energy delivery to the Customer's system is reduced or interrupted for 1 hour or longer, and such reduction or

interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

(d) *Power Factor:* If the Customer owns or operates generating facilities (other than mobile generating equipment used for emergency purposes), the Customer will so utilize its generating units and power factor corrective equipment as to minimize its reactive requirements; *provided, however,* That unless otherwise specifically agreed, the Government will not be obligated to make available for delivery power and energy to the Customer at any time at a power factor below .85 lagging.

October 1, 1981.

[FR Doc. 81-27236 Filed 9-17-81; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59059 TSH-FRL-1914-6]

Certain Chemicals Premanufacture Exemption Applications

Correction

In FR DOC. 81-24346 appearing at page 42331 in the issue of Thursday, August 20, 1981 please make the following correction:

On page 42332, middle column, above, "Close of Review Period", the line "TME 81-28" should be inserted.

BILLING CODE 1505-01-M

Availability of Environmental Impact Statements

AGENCY: Office of Federal Activities (A-104), 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, organizations and individuals for review pursuant to the council on environmental qualitiy's regulations (40 CFR 1506.9) during the week of September 8, 1981 to September 11, 1981.

REVIEW PERIODS: The 45-day review period for draft EISS' listed in this notice is calculated from September 18, 1981 and will end on November 2, 1981. The 30-day review period for final EISS, as calculated from September 18, 1981 will end on October 19, 1981.

EIS AVAILABILITY: To obtain a copy of an EISS listed in this notice you should contact the Federal agency which prepared the EIS. If a Federal agency does not have the EIS available upon request you may contact the Office of Federal Activities, EPA, for further information. Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following source: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558-8270.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Federal Activities, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 245-3006.

Dated: September 15, 1981.

William N. Hedeman, Jr.,

Director, Office of Federal Activities (A-104).

Department of Agriculture

FS: Draft—Southwestern Region Plan, Standards and Guidelines, Arizona, New Mexico, Oklahoma and Texas; the review period for this EIS has been extened until December 18, 1981 (EIS order No. 810738).

SCS: Final—Richland Creek Watershed Flood Protection, Rankin County, Mississippi (EIS order No. 810740).

Extension: FS: Draft—Blackbird Cobalt-Copper Mine, Salmon National Forest, Lemhi County, Idaho-published FR September 11, 1981—the review period for this EIS has been extended until November 13, 1981 (EIS order No. 810719).

Army Corps of Engineers

Draft—Indiana Dunes National Lakeshore Erosion, Porter and LaPorte Counties, Indiana (EIS order No. 810746).

Draft—Pineville Flood Reduction and Highway Relocation, Bell County, Kentucky; the review period for this EIS has been extended until November 6, 1981 (EIS order No. 810734).

Draft—Louisiana State Penitentiary Levee, Mississippi River, Feliciana Parish, Louisiana; the reivew period for this EIS has been extended until November 8, 1981 (EIS order No. 810748).

Department of Energy

Draft—International Submarine Transmission Line, Permit, Erie County, Pennsylvania to Canada (EIS order No. 810751).

Department of Housing and Urban Development

Draft—Walnut Hills Development, Mortgage Insurance, Salt Lake County, Utah (EIS order No. 810739).

104H: Final Supplement—Woodlands New Community, Title VII, Montgomery County, Texas (EIS order No. 810745).

Department of Interior

NPS: Final—Lowell National Historical Park Management Plan, Middlesex County, Massachusetts (EIS Order No. 810744).

NPA: Final—Bighorn Canyon National Recreation Area, Wyoming and Montana (EIS order #810743)

FWS: Draft—Minnesota Valley National Wildlife Refuge, Minnesota—the EIS should have appeared in the September 11, 1981 FR—the review period for this EIS has been extended until October 30, 1981 (EIS ordre No. 810702).

Department of Transportation

FHWA: Draft—Douglas Airport Access Road, Mecklenburg County, North Carolina (EIS order No. 810747).

FHWA: Final—US 82 Improvement, Eoline to Vick, Bibb County, Alabama (EIS order No. 810749).

FHWA: Final—US 20/IL-84 Improvement, Galena River Bridge, Jo Daviess County, Illinois (EIS order No. 810741).

FHWA: Final—US 421 Improvement, Purdue University to US 20, LaPorte County, Indiana (EIS order No. 810742).

FHWA: Final—I-395 Extension, Bangor to Brewer, Penobscot County, Maine (EIS order No. 810736).

Environmental Protection Agency

EPA 3: Draft—Edinboro/Washington Township Wastewater Treatment Facilities, Grant, Erie County, Pennsylvania (EIS order No. 810737).

EPA 3: Final—Gettysburg Wastewater Treatment Facilities, Grant, Adams County, Pennsylvania (EIS order No. 810735).

EPA 4: Draft—South Fort Meade Phosphate Mine, NPDES Permit, Polk County, Florida (EIS order No. 810750).

[FR Doc. 81-27302 Filed 9-17-81; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

[Agreements Nos. 10426, 10427, 10428 And 7593-7]

Availability of Findings of No Significant Impact

Upon completion of environmental assessments, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on the proposed action listed below will not constitute major Federal actions 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.* and

that preparation of environmental impact statements is not required.

Agreement No. 10426, to be known as Florida/Eastern Caribbean Rate Agreement, is between Mayan Line, Inc.; The Northern Line A/S; Nopal Caribe Lines; Pan American Mail Line/Pan Atlantic Lines; and, Tropical Shipping Co. Ltd. These parties presently operate common services between U.S. Florida ports and ports in Barbados, Trinidad, Martinique and Guadeloupe.

Agreement No. 10427 is a transshipment arrangement between Aleut Alaska Shipping Company (AASC) and American President Lines, Ltd. (APL). APL and AASC will use Dutch Harbor as the transshipment point on cargoes moving between western Alaska and Seattle, Washington.

Agreement No. 10428 is a general sales agency arrangement between Puerto Rico Maritime Shipping Authority (PRMSA) and Imar Intercontinental Maritima, S.A. (IMAR). The agreement provides for the performance of all marketing, sales, booking and other services in connection with IMAR's ocean service between Miami and points in the West Coast of South America, Venezuela, Panama and Colombia.

Agreement No. 7593-7 is an amendment to joint service arrangement between Leif Hoegh Co., A/S Atlantica, A/S Arcadia and A/S Abaco.

The Findings of No Significant Impact (FONSI) will become final on or before October 8, 1981, unless petitions for review are filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessments are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 81-27145 Filed 9-17-81; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (80 stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Canadian Cruise Lines Ltd., Suite #401, 1208 Wharf Street, Victoria, B.C. V8W 3B9, Canada.

This Certificate expired September 14, 1981.

Dated: September 15, 1981.

Francis C. Hurney,

Secretary.

[FR Doc. 81-27144 Filed 9-17-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0261]

Forward Placement or Delayed Delivery Contracts and Interest Rate Futures Contracts; Policy Statements

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: This interpretation is to clarify the fact that State member banks intending to take positions in interest rate futures contracts specifying delivery of certificates of deposit issued by domestic banks (bank C/D's) should do so in accordance with requirements of the Board's existing policy statement governing futures and forward contracts on U.S. government and agency securities. Bank holding companies intending to engage in comparable activities should do so in accordance with the Board's existing policy statement governing bank holding company participation.

EFFECTIVE DATE: September 18, 1981.

FOR FURTHER INFORMATION CONTACT: Robert S. Plotkin, Assistant Director, or Michael J. Schoenfeld, Senior Securities Regulations Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2781).

SUPPLEMENTARY INFORMATION: The three Federal bank regulatory agencies have formally adopted guidelines for banks engaging in futures, forward and standby contracts on U.S. government and agency securities.[1] In addition, the Board of Governors issued a policy statement governing the participation of bank holding companies and their nonbank subsidiaries in futures, forward and standby contracts on U.S. government and agency securities (45 FR 61595 (September 17, 1980)). Concurrent with the Commodities Futures Trading Commission's approval of trading in futures contracts specifying delivery of bank C/D's and the commencement of exchange trading of such contracts in July 1981, the Board received a number of inquiries concerning the applicability of the bank policy statement to such futures contract activities.

The Board believes that the policies and procedures (including accounting requirements) contained in the referenced bank policy statement should be followed by State member banks that choose to engage in transactions in contracts specifying delivery of bank C/D's. Futhermore, the Board believes that the referenced bank holding company policy statement would be applicable to any bank holding company or nonbank subsidiary utilization of futures contracts specifying delivery of bank C/D's.

By order of the Board of Governors of the Federal Reserve System, September 15, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-27281 Filed 9-17-81; 8:45 am]

BILLING CODE 6210-01-M

[1] See 45 FR 18116 (March 20, 1980); 45 FR 18120 (March 20, 1980); Office of the Comptroller of the Currency, Banking Circular 79 (2nd Rev.) (March 19, 1980).

Bancshares Corp.; Formation of Bank Holding Company

Bancshares Corporation, Luling, Louisiana, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Bank of St. Charles and Trust Company, Luling, Louisiana. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 10, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-27284 Filed 9-17-81; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4 (b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Boards of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than October 7, 1981.

A. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Fourth Financial Corporation, Wichita, Kansas (financing activities; Kansas): Proposes to engage in commercial, consumer and mortgage finance activities by making and acquiring secured and unsecured loans and other extensions of credit such as would be made by a commercial finance company, a consumer finance company, or a mortgage company. These activities would be conducted at Applicant's office in Wichita, Kansas, serving primarily the needs of borrowers located in south-central Kansas.

2. United Banks of Colorado, Inc., Denver, Colorado (financing and insurance activities: Colorado): Proposes to engage through its subsidiary, United Bank Financial Center, Inc., in making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit and offering credit related life, credit related accident and health and credit related property insurance; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans and other extensions of credit secured by real and personal property and offering credit related life, credit related accident and health and credit related property insurance directly related to extensions of credit made or acquired by United Bank Financial Center, Inc. These activities will be conducted from offices in Aurora, Colorado, serving the south eastern portion of Arapahoe County, including the city of Aurora and the contiguous northeastern portion of Douglas County, Colorado; Littleton, Colorado, serving the south central portion of Arapahoe County including the cities of Englewood and Littleton and the contiguous central portion of Douglas County, Colorado; Denver, Colorado serving Jefferson County, Colorado; Northglenn, Colorado, serving Adams County and the contiguous portions of Denver and Boulder Counties, Colorado; and Fort Collins, Colorado, serving Larimer County and the contiguous western portion of Weld County, Colorado.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Bankamerica Corporation, San Francisco, California (financing and servicing activities; *de novo* offices; expansion of geographic scope): To engage, through its indirect subsidiary, MerCredit Corporation, a Pennsylvania corporation, in the activities of making loans and extending credit, servicing loans and other extensions of credit for itself and others, and providing services incidental to such loans and extensions of credit such as would be made or provided by a finance company. Such activities will include, but not be limited to, purchasing installment sales finance contracts; and providing funds and/or credit services in connection with the financing of stock and floor plan inventory of distributors and dealers of consumer products. Credit-related insurance of any type will not be offered by MerCredit Corporation in connection with its lending activities. MerCredit Corporation's activities will be conducted from three existing offices located in the following cities: Allentown, Pennsylvania, serving the entire state of Pennsylvania, all other states except Alaska and Hawaii and the District of Columbia; Kansas City, Kansas, serving the entire state of Georgia and the states of Alabama, Florida, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee; and three *de novo* offices located in the following cities: Dale City, California, serving the states of California, Arizona, Idaho, Montana, Nevada, Oregon, Utah, and Washington; Hamden, Connecticut, serving the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington, D.C., and Bloomington, Minnesota, serving the states of Minnesota, Illinois, Indiana, Iowa, Kentucky, Michigan, Montana, New York, North Dakota, Ohio, Pennsylvania, South Dakota, West Virginia, and Wisconsin.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 10, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-27292 Filed 9-17-81; 8:45 am]

BILLING CODE 6210-01-M

Bremen Bancorp, Inc.; Formation of Bank Holding Company

Bremen Bancorp, Inc., St. Louis, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bremen Bank and Trust Company, St. Louis, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 10, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-27285 Filed 9-17-81; 8:45 am]

BILLING CODE 6210-01-M

Dai-Ichi Kangyo Bank Ltd.; Formation of Bank Holding Company

The Dai-Ichi Kangyo Bank Ltd., Tokyo, Japan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent, of the voting shares, less directors' qualifying shares, of Japan California Bank, Los Angeles, California. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 8, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-27287 Filed 9-17-81; 8:45 am]

BILLING CODE 6210-01-M

Edville Corp.; Formation of Bank Holding Company

Edville Corporation, Villa Park, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 percent or more of the voting shares of Villa Park Trust & Savings Bank, Villa Park, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 7, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-27286 Filed 9-17-81; 8:45 am]

BILLING CODE 6210-01-M

First Northbrook Bancorp, Inc.; Formation of Bank Holding Company

First Northbrook Bancorp, Inc., Northbrook, Illinois, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank of Northbrook, Northbrook, Illinois. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 10, 1981. Any comment on an application that requests a hearing must include a statement or why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-27288 Filed 9-17-81; 8:45 am]

BILLING CODE 6210-01-M

First Russellville Bankstock, Inc.; Formation of Bank Holding Company

First Russellville Bankstock, Inc., Russellville, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 86.64 percent or more of the voting shares of First National Bank of Russellville, Russellville, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 10, 1981. Any comment on an application that requests a hearing must include a statement of why written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-27290 Filed 9-17-81; 8:45 am]

BILLNG CODE 6210-01-M

Granville Bancshares, Inc.; Formation of Bank Holding Company

Granville Bancshares, Granville, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares, less directors' qualifying shares, of the successor by merger to The Granville National Bank, Granville, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 10, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-27289 Filed 9-17-81; 8:45 am]

BILLING CODE 6210-01-M

Marshall Bancshares, Inc.; Formation of Bank Holding Company

Marshall Bancshares, Inc., Marshall, Arkansas, has applied for the Board's approval under section 3(a)(1) of the

Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Citizens Bank, Marshall, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 10, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-27291 Filed 9-16-81; 8:45 am]

BILLING CODE 6210-01-M

Mercantile Bancorporation Inc.; Proposed Issuance and Sale of Travelers Checks

Mercantile Bancorporation Inc., St. Louis, Missouri, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the issuance and sale of travelers checks. These activities would be performed from all offices of Applicant's subsidiary banks, and the geographic areas to be served are the areas served by Applicant's banking subsidiaries.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 10, 1981.

Board of Governors of the Federal Reserve System, September 14, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-27283 Filed 9-17-81; 8:45 am]

BILLING CODE 6210-01-M

First Southwest Corp.; Formation of Bank Holding Company

First Southwest Corporation, McComb, Mississippi, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First Bank of Southwest Mississippi, McComb, Mississippi. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 10, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-27282 Filed 9-17-81; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Aetna Life & Casualty Co.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Aetna Life & Casualty Co. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets and voting securities of TCF Holdings, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 26, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-27229 Filed 9-17-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Campbell Taggart Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Campbell Taggart Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Rod's Food Products, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any

action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 25, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-27230 Filed 9-17-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Esmark Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting or request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Esmark Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of InterNorth Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Esmark. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 19, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-27228 Filed 9-17-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Peter de Savary

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Peter de Savary is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Independent Refining Corp. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 26, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-27232 Filed 9-17-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Zurbrugg Memorial Hospital

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Zurbrugg Memorial Hospital is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Humana Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Zurbrugg. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 24, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-27231 Filed 9-17-81; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[E-81-16]

Secretary of Defense; Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the South Carolina Public Service Commission involving electric rates, Docket No. 81-72-E.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the South Carolina Public Service Commission involving the application of the South Carolina Electric and Gas Company for an increase in its electric rates in Docket No. 81-72-E.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: September 8, 1981.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 81-27201 Filed 9-17-81; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

The Federal Employee Alcoholism Programs Work Group of the Interagency Committee on Federal Employees for Alcohol Abuse and Alcoholism; Meeting

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 body scheduled to assemble during the month of September 1981.

The Federal Employee Alcoholism Programs work Group of the Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, September 22; 10:00 a.m.–12:00 p.m. Open, Conference Room 1137, North Building, Department of Health and Human Services, 330 Independence Avenue, S.W., Washington, D.C. 20201. Contact: Ms. Lisa Teems, Room 509-F, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, (202) 245-7153.

Purpose: The Federal Employee Alcoholism Programs (FEAP) Work Group: (1) evaluates the adequacy and technical soundness of all internal programs dealing with employee alcoholism within all Federal military and civilian organizations of 1,000 employees or more; (2) provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities; (3) seeks to coordinate efforts among Federal agencies for internal employee alcoholism programs; and (4) submits reports and recommendations to the Interagency Committee as necessary in order to perform the above functions.

Agenda: The meeting will consist of a discussion on the development of standards for consortia, a discussion on the benefits and disadvantages of contracted EAP services vs. in-house programs, a report on regional FEAP activities, and reports by Federal agencies.

This Notice has been delayed due to the tentative presentation of the key presenter of this Work Group.

Substantive program information may be obtained from the contact person listed above. Summary of the meeting and roster of the Committee members may be obtained from Mr. Leland H. Towle, Room 16C-03, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443-2593.

Dated: September 15, 1981.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 81-27200 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Blood Products Advisory Committee

Date, time, and place. October 9, 8:30 a.m., Rm. 121, Bldg. 29, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m.; open committee discussion, 9:30 a.m. to 4 p.m., closed committee deliberations, 4 p.m. to 5:30 p.m.; Clay Sisk, Bureau of Biologics (HFB-5), Food and Drug Administration, Building 29, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-5455.

General function of the committee. The committee reviews and evaluates data on the safety, effectiveness, and appropriate use of blood products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will review data on a pending license application for an anti-thymocyte globulin product.

Closed committee deliberations. The committee will review data on manufacturing procedures for a biologic product subject to a pending license application. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Applications for reimbursement. Must be received by September 28, 1981.

General Hospital and Personal Use Device Section of the General Medical Devices Panel

Date, time, and place. October 19, 8:30 a.m., Silver Room North, Holiday Inn, 8777 Georgia Ave., Silver Spring, MD.

Type of meeting and panel section leader. Closed committee deliberations, 8:30 a.m. to 9:30 a.m.; open public hearing, 9:30 a.m. to 10:30 a.m.; open committee discussion, 10:30 a.m. to 4:30 p.m.; Robert Gatling, Bureau of Medical Devices (HFK-420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7750.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data,

information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before October 9, 1981, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the safety and effectiveness data in premarket approval application (PMA) P800036 for an implantable infusion pump.

Closed committee deliberations. The committee will discuss premarket approval application P800036 for an implantable infusion pump. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Applications for reimbursement. Must be received by October 2, 1981.

Immunology Device Section of the Immunology and Microbiology Devices Panel

Date, time, and place. October 19 and 20, 9 a.m., Silver Room South, Holiday Inn, 8777 Georgia Ave., Silver Spring, MD.

Type of meeting and panel section leader. Open public hearing October 19, 9 a.m. to 10 a.m., open committee discussion, 10 a.m. to 12 a.m.; closed presentation of data, 1 p.m. to 3 p.m., closed committee deliberations, 3 p.m. to 5 p.m.; closed committee deliberations, October 20, 9 a.m. to 11 a.m.; open committee discussion, 11 a.m. to 5 p.m.; Dr. Srikrishna Vadlamudi, Bureau of Medical Devices (HFK-440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda-Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before October 10, 1981, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval application (PMA) P790022: Lancer TennaGen Assay, Sherwood Medical Industries, Inc.

Closed presentation of data. Representatives of Sherwood Medical Industries will present data regarding PMA P70022 for a Lancer TennaGen Assay, for committee review. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Closed committee deliberations. The committee will discuss PMA P790022, Lancer TennaGen Assay, Sherwood Medical Industries. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Applications for reimbursement. Must be received by October 5, 1981.

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. October 19 and 20, 9 a.m., Auditorium, 200 Independence Ave., SW, Washington, DC.

Type of meeting and panel section leader. Open public hearing, October 19, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m., closed committee deliberations, 1 p.m. to 5 p.m.; open public hearing, October 20, 9 a.m. to 10 a.m., open committee discussion, 10 a.m. to 12 m.; closed committee deliberations; 1 p.m. to 5 p.m., Dr. Max W. Talbott, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7320.

General function of committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before October 5, 1981, and submit a brief statement of the generl nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On October 19, the committe will discuss statistical/epidemiological questions pertaining to intraocular lenses (IOL's) and premarket approval applications (PMA's) for IOL's. On October 20 the committee will discuss PMA's and general issues relating to IOL's. It may also discuss PMA's for contact lens products, revision of the contact lens matrix, and general issues relating to ophthalmic devices.

Closed committee deliberations. The committe will conduct reviews of IOL premarket approval applications on October 19 and 20. These portions of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Applications for reimbursement. Must be received by October 2, 1981.

Gastroenterology and Urology Device Section of the General Medical Devices Panel

Date, time, and place. October 22 and 23, 9 a.m., Rm. 1207, 8757 Georgia Ave., Silver Spring, MD.

Type of meeting and panel section leader. Open public hearing, October 22, 9 a.m. to 10 a.m., closed presentation of data, 10 a.m. to 11 a.m.; open committee discussion, 11 a.m. to 4 p.m.; closed presentation of data, October 23, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; Dr Normal T. Welford, Bureau of Medical Devices (HFK-420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7750.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before October 9, 1981, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On October 22, the committee will discuss a premarket approval application for blood access for hemodialysis, and guidelines for testing conventional hemodialysers and hemofilters. On October 23, the committee will discuss a premarket approval application for a crossflow apheresis system.

Closed presentation of data. The committee will discuss data presented by sponsors of PMA's for blood access for hemodialysis, October 22, and for a crossflow filter apheresis system, October 23. These portions of the meeting will be closed to permit

discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Applications for reimbursement. Must be received by October 5, 1981.

Circulatory System Devices Panel

Date, time, and place. October 23, Rm. 703–727A, 200 Independence Ave., SW., Washington, D.C.

Type of meeting and executive secretary. Open public hearing, 8:30 a.m. to 9:30 a.m., open committee discussion, 9:30 a.m. to 10:30 a.m.; closed committee deliberations, 10:30 a.m. to 4 p.m.; Mr. Glenn Rahmoeller, Bureau of Medical Devices (HFK–450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary before October 12, 1981, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss applications for premarket approval applications (PMA's) including those for the Siemens-Elema Carbon Tip Pacemaker Lead and the St. Jude Medical Heart Valve.

Closed committee deliberations. The committee will discuss trade secret information relevant to PMA's including those for the Siemens-Elema Carbon Tip Pacemaker Lead and the St. Jude Medical Heart Valve. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C 552b(c)(4)).

Applications for reimbursement. Must be received by October 2, 1981.

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Applications for reimbursement for participation in the meeting(s) listed above should be sent to the Office of Consumer Affairs (HFE–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Dockets Management Branch as prescribed in § 10.210 of the regulations (21 CFR 10.210). If you wish to submit an application or wish more information regarding the reimbursement program, please call 301–443–5006.

FDA has established expedited procedures for review of any application for reimbursement for participation in the meeting(s) announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for participation in the

meeting(s) announced in this notice in the docket for this notice.

Dated: September 11, 1981.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 81-27194 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 75F-0355]

Aspartame: Commissioner's Final Decision

Correction

In FR Doc. 81-21696 appearing at page 38285 in the issue of Friday, July 24, 1981, please make the following changes:

(1) On page 38287, first column, thirteenth line, "impossibility of providing" should read "impossibility of proving"

(2) On page 38292, first column, in paragraph (2), last line, "4:299" should read "4:499"

(3) On page 38299, first column, in paragraph (3), seventh line, the number "323" should read "232".

(4) On page 38301, first column, four lines from bottom of the page, "AMP" should read "APM"; and in the second column, ninth line, "a review of" should read "a review by".

(5) On page 38305, third column, under the heading "B. Focal Brain Lesions" second from last line, "(30" should read "(3)"

BILLING CODE 1505-01-M

[Docket No. 75F-0355]

Aspartame; Commissioner's Final Decision; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; final decision following a hearing before a public board of inquiry; correction.

SUMMARY: In FR Doc. 81-21696 appearing at page 38285 in the Federal Register for Friday, July 24, 1981, the following corrections are made:

1. On page 38285, the second column under "B. Historical Chronology", the fourth line of paragraph 1.e., "products and toppings. In chewing gum," is changed to read: "product analog toppings. In chewing gum,".

2. On page 38288, the first column, in the fourth line from the botton, "food additive" is changed to read: "generally recognized as safe (GRAS) substance".

FOR FURTHER INFORMATION CONTACT: Ted Herman, Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

Dated: September 9, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-26858 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81M-0237]

Collagen Corp.; Premarket Approval of Zyderm™ Collagen Implant

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Zyderm™ Collagen Implact sponsored by Collagen Corp., Palo Alto, CA. After reviewing the recommendation of the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petition for administrative review by October 19, 1981.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On May 2, 1980, Collagen Corp., Palo Alto, CA, submitted to FDA an application for premarket approval of the Zyderm™ Collagen Implant for soft tissue augmentation. The application was reviewed by the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel, an FDA advisory committee, which recommended approval of the application. On July 22, 1981, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Henry Goldstein (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 19, 1981, file with the Dockets Management Branch (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 11, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-27191 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81F-0120]

Diversey Wyandotte Corp.; Filing of Food Additive Petition

Correction

In FR Doc. 81-24002 appearing on page 41862 in the issue of Tuesday,

August 18, 1981, make the following corrections:

1. On page 41862, third column, the seventh line of the "Summary", the last "comma" in the line should be removed. As corrected the seventh line should read:
"iodine, *alpha*—[*p*—(1,1,3,3—".

2. The last word in the eleventh line of the "Summary" reading "* * * (oxypropy" should read "* * * (oxypropylene)]"

3. The word "iodine" was misspelled in the tenth line of "Supplementary Information:"

4. The eleventh line of "Supplementary Information:" reading "[*p*—1,1,3,3,—" should read "[*p*—1,1,3,3—"

5. The last word of the fifteenth line of "Supplementary Information" reading "* * * (oxypropy" should read "* * * (oxypropylene)]"

BILLING CODE 1505-01-M

[Docket No. 81N-0273]

El Paso Plasma Corp.; Revocation of U.S. License No. 586

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the revocation on July 10, 1981, of establishment license (U.S. License No. 586) and product license issued to El Paso Plasma Corp., 405 South El Paso St., El Paso, TX 79901, for the manufacture of Source Plasma (Human). Because of significant deviations from the biologics regulations in the manufacture of this biological product, the manufacturer requested that the licenses be revoked.

EFFECTIVE DATE: The revocation of the establishment and product licenses was effective July 10, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, Bureau of Biologics (HFB-620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: FDA has revoked the establishment license (U.S. License No. 586) and product license issued to El Paso Plasma Corp., 405 South El Paso Street, El Paso, TX 79901, for the manufacture of South Plasma (Human).

Inspection of the El Paso Plasma Corp. from April 23 to May 15, 1981, revealed numerous deviations from the requirements of Parts 601, 610, and 640 (21 CFR Parts 601, 610, and 640) of the biologics regulations. These deviations included, but were not limited to:

1. Collecting more than the maximum permissible amount of whole blood and reinfusing the excess whole blood into the donor's vein by elevating and manually squeezing the blood collection bag (21 CFR 601.5(b)(4));

2. Accepting an individual repeatedly for plasmapheresis who had previously tested positive for hepatitis B surface antigen and providing this plasma for use in the preparation of injectable biological products (21 CFR 610.41);

3. Accepting donors for Source Plasma (Human) without always determining their suitability by means of appropriate tests (21 CFR 640.63(c)).

Because these deviations were determined by the agency to constitute a serious danger to health, the firm's establishment and product licenses were suspended on June 3, 1981.

Following a review of the reports of the April to May, 1981, inspection which revealed willful violations by the firm, FDA issued a letter informing the firm of the agency's intention to revoke the firm's establishment and product licenses and to publish a notice of opportunity for hearing. Before further regulatory action was taken, the firm requested that its establishment and product licenses be revoked and waived the opportunity for a hearing under § 601.5(a) (21 CFR 601.5(a)). The agency has granted the request.

Accordingly, under §12.38 (21 CFR 12.38) and section 351 of the Public Health Service Act (42 U.S.C. 262), and the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), and redelegated to the Director, Bureau of Biologics (21 CFR 5.68), U.S. License No. 586 issued to El Paso Plasma Corp. and product license for the manufacture of Source Plasma (Human) were revoked, effective July 10, 1981. This notice of revocation is published under § 601.8 (21 CFR 601.8).

Dated: September 9, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-26856 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

Health Professional Organization Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming meeting with health professional organizations to be chaired by Arthur Hull Hayes, Jr., M.D., Commissioner of Food and Drugs.

DATE: The meeting will be held at 2 p.m., Tuesday, October 6, 1981.

ADDRESS: The meeting will be held at the Hubert H. Humphrey Bldg., Rm. 403A, 200 Independence Ave. SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Audrey L. Wood, Office of Health Affairs (HFY-4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5470.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs meets periodically with executives of the health professional organizations to share mutual concerns and facilitate dissemination of FDA proposals and decisions affecting the country's health care.

Dated: September 9, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-26857 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 77N-0239]

Model Retail Food Store Sanitation Ordinance; Revised Proposal Provided to Association of Food and Drug Officials

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) announces that the 1981 revision of the proposed Model Retail Food Store Sanitation Ordinance has been provided to the Association of Food and Drug Officials (AFDO), 1791 Pelham Drive, York, PA 17402. The model ordinance was initiated by AFDO and has been jointly developed with FDA to provide industry and State and local governments with a uniform food protection code for the operation and regulations of retail food stores.

ADDRESS: The 1981 revision of the proposed "Model Retail Food Store Sanitation Ordinance" and the written comments received by FDA in response to the previous proposed revision are available for viewing at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Arthur L. Banks, Bureau of Foods (HFF-340), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1508.

SUPPLEMENTARY INFORMATION: In August 1974, the Executive Board of the Association of Food and Drug Officials

petitioned FDA "to publish in the Federal Register and adopt as soon as possible a Retail Food Market Document." A proposed retail food market sanitation standard which had been developed by AFDO's Food Service and Retail Food Handling Committee was provided to FDA as part of the petition. FDA agreed to continue development of the document provided by AFDO and to promote its adoption after it is completed.

FDA initially announced the availability for comment of a proposed model Retail Food Store Ordinance in a notice published in the Federal Register of October 25, 1977 (42 FR 56367). The comment period was extended to 120 days and closed February 24, 1978.

Significant changes were made in this ordinance as a result of the comments received. Consequently, FDA decided that interested persons should be allowed to comment on the revised ordinance. A notice announcing its availability for comment was published in the Federal Register of November 3, 1978 (43 FR 51450). The comment period for the revised document closed on January 31, 1979.

Forty-nine letters, each containing one or more comments, were submitted in response to the revised proposed ordinance. All the comments were carefully considered in preparing the 1981 revision of the document, and a number of additional changes have been made to accommodate meritorious points.

A draft copy of the 1981 revised proposal that was provided to AFDO from FDA may be viewed at the Dockets Management Branch, address above. When the model ordinance is finalized by AFDO and FDA, a notice will be published in the Federal Register announcing its availability and the procedures for obtaining printed copies.

Dated: September 9, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-26855 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0431; DESI 11738]

Oxymorphone Hydrochloride 2-Milligram Rectal Suppositories; Withdrawal of Approval of Pertinent Parts of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is withdrawing approval of those parts of the new drug application (NDA 11-738) pertaining to Numorphan Hydrochloride Rectal Suppositories containing 2 milligrams oxymorphone hydrochloride. The basis of the withdrawal is that the drug product lacks substantial evidence of effectiveness for its labeled indications. The product was previously used for the relief of moderate to severe pain but is no longer marketed.

EFFECTIVE DATE: September 28, 1981.

ADDRESS: Request for an opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 11738 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jean A. Peeler, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of June 12, 1981 (46 FR 31069), the Food and Drug Administration reclassified 2-mg oxymorphone hydrochloride rectal suppositories to lacking substantial evidence of effectiveness and offered an opportunity for a hearing on the proposal to withdraw approval of those parts of NDA 11-738 pertaining to Numorphan Hydrochloride Rectal Suppositories containing 2 mg oxymorphone hydrochloride, formerly marketed by Endo Laboratories, 100 Stewart Ave., Garden City, NY 11530. Because Endo Laboratories did not request a hearing, approval of pertinent parts of this application is now being withdrawn.

No other person filed a written appearance of election as provided by the June 12, 1981 notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportuntiy for a hearing.

Any drug product that is identical, related, or similar to the drug product named above and that is not the subject of an approved new drug application is covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling compliance (address given above).

Another Federal Register notice of June 12, 1981 (46 FR 31070) reclassified Oxymorphone Hydrochloride 5-mg Rectal Suppositories to effective for use in the relief of moderate to severe pain. This withdrawal notice does not apply to the 5-mg suppository.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of those parts of the new drug application (NDA 11-738) providing for the 2-mg product, listed above, and all amendments and supplements applying thereto, is withdrawn effective September 28, 1981.

Shipment in interstate commerce of the above product or of any identical, related, or similar product that is not the subject of an approved new drug application, will then be unlawful.

Dated: September 9, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-26869 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81N-0231]

Philips Roxane, Inc.; Oxytocin Injectable; Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces that the Director of the Bureau of Veterinary Medicine (BVM) is providing an opportunity for hearing to Philips Roxane, Inc., on his refusal to approve a supplement to a new animal drug application for oxytocin injection. The supplement requests approval for the over-the-counter (OTC) marketing of oxytocin injection labeled for use in sows, after farrowing, for milk letdown. The Director concludes that the applicant has not met the statutory requirement of demonstrating that the drug can be used safely over-the-counter for the proposed use.

DATES: A written appearance requesting a hearing by October 19, 1981; data and analysis on which a request for hearing relies by November 17, 1981.

ADDRESS: Written appearances, data, and analysis to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food

and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip J. Frappaolo, Bureau of Veterinary Medicine (HFV–232), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4940.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Director of the Bureau of Veterinary Medicine (the Director) is providing an opportunity for hearing to Philips Roxane, Inc., on a refusal to approve a supplement to a new animal drug application (NADA 99–169) for oxytocin injection. The supplement requests approval for the OTC marketing of oxytocin injection labeled for use in sows, after farrowing, for milk letdown. The drug is currently approved as a prescription drug for several indications, including milk letdown. The grounds for refusing to approve the supplement are:

1. The application does not include adequate tests by all methods reasonably applicable to show whether or not the drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling, i.e., the applicant has not shown that the drug can be used safely if it is not used by or on the order of a licensed veterinarian, for the proposed conditions of use, pursuant to section 512(d)(1)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(d)(1)(A)). The applicant has not shown that the conditions of use prescribed, recommended or suggested in the proposed labeling are reasonably certain to be followed in practice, as required by section 512(d)(2)(D) (21 U.S.C. 360b(d)(2)(D));

2. On the basis of the information submitted and other information, there is insufficient information to determine whether the drug is safe for use under the proposed conditions of use pursuant to section 512(d)(1)(D) of the act (21 U.S.C. 360b(d)(1)(D)); and

3. As a result, the proposed labeling does not and cannot bear adequate directions for use as required by section 502(f)(1) of the act (21 U.S.C. 352(f)(1)) and cannot be exempted from the requirement of bearing adequate directions for use under 21 CFR 201.105.

II. The Drug

A. *Description of the Drug.* Oxytocin is produced in the hypothalamus and stored in and released from the posterior lobe of the pituitary gland. When released, the hormone causes two distinct reactions: uterine contractions (oxytocic action) and milk letdown due to myoepithelium contraction of the mammary gland (galactagogue effect). Natural oxytocin is prepared from slaughterhouse material; however, synthesized oxytocin is commercially available and is physiologically and chemically identical to natural oxytocin.

The National Academy of Sciences/National Research Council (NAS/NRC) reviewed oxytocin injection for veterinary use as part of the Drug Effectiveness Study Implementation (DESI) review. The FDA announced the DESI findings in the Federal Register of February 13, 1969 (34 FR 2146). In that notice, the agency published suggested labeling and invited sponsors to submit revised labeling to limit the claims, and state the conditions of use, as follows:

Actions

Oxytocin is a hormone of the posterior pituitary with pronounced uterine-contracting and milk-releasing action.

Indications

Oxytocin may be used as a uterine contractor to precipitate and accelerate normal parturition and postpartum evacuation of uterine debris. In surgery it may be used postoperatively following cesarean section to facilitate involution and resistance to the large inflow of blood. It will contract smooth muscle cells of the mammary gland for milk letdown if the udder is in proper physiological state.

Dosage and Administration (Intravenous, Intramuscular of Subcutaneous)

	U.S.P. units
For obstetrical use:	
Horses and cows	100 (5 mL).
Sows and ewes	30–50 (1½ to 2½ mL).
Dogs	5–30 (¼ to ½ mL).
Cats	5–10 (¼ to ½ mL).
For milk letdown:	
Cows	10–20 (½ to 1 mL).
Sows	5–20 (¼ to 1 mL).

Contraindication

Do not use in dystocia due to abnormal presentation of fetus until correction is accomplished.

Precautions

For prepartum usage, full relaxation of the cervix should be accomplished either naturally or by the administration of estrogen prior to oxytocin therapy.

Caution: Federal law restricts this drug to sale [1] by or on the order of a licensed veterinarian.

The FDA adoption of the DESI review for oxytocin is reflected in 21 CFR 522.1680.

B. *Philips Roxane's Application and Supplement.* Philips Roxane, Inc., submitted a new animal drug application (NADA 99–169) for oxytocin injection (Anchor Veterinary Oxytocin Injection) under the provisions of the DESI program. The agency approved the NADA in the Federal Register of June 16, 1976 (41 FR 24347). The approved product contains 20 U.S.P. units of oxytocin in each milliliter and is labeled for use in horses, cows, swine, sheep, dogs, and cats. It is indicated as a uterine contractor to precipitate and accelerate normal parturition and postpartum evacuation of uterine debris, and to facilitate involution and resistance to the large inflow of blood following cesarean section. It is also labeled for use to contract smooth muscle cells of the mammary gland for milk letdown if the udder is in a proper physiological state. The drug is restricted to use by or on the order of a licensed veterinarian. Section 522.1680 *Oxytocin injection* (21 CFR 522.1680) was amended to reflect the approval.

On September 22, 1978 Philips Roxane submitted a supplement to NADA 99–169 requesting approval for the OTC marketing of oxytocin injection when labeled solely for use in sows after farrowing for milk letdown. The supplement, and an addendum, contained Philips Roxane's analysis and argument in support of its position that complete directions for safe use by the layman can be written, and that the use of oxytocin for milk letdown in sows after farrowing meets the Food and Drug Administration (FDA) criteria for a non-prescription drug. The firm also concluded that the non-prescription marketing of oxytocin for milk letdown after farrowing would be beneficial to the swine producer by making the drug more readily available, especially in those areas where veterinarians are not easily accessible.

III. Statutory Requirements

The basis for determining whether a drug can be labeled for over-the-counter use rests in sections 512 and 502(f)(1) of the act. The sponsor has the burden of showing that the drug meets the statutory requirements. (See the Commissioner's decision on Benylin (44 FR 51512, 51528, 51536; August 31, 1979).)

A. *Section 512.* Section 512 provides authority for requiring that new animal drugs be restricted to use under professional supervision and establishes bases for determining whether a drug should be so restricted.

Section 512(d)(1)(A) requires that a drug be shown to be "safe for use under the conditions prescribed, recommended or suggested in the proposed labeling thereof." Moreover, section 512(d)(2) specifically articulates factors that are to be considered in determining whether

[1] "Sale" in the prescription legend was subsequently changed to "use" by FDA.

a new animal drug will be safe under its proposed conditions of use. Among the enumerated factors is the following: "(D) whether the conditions of use prescribed, recommended, or suggested in the proposed labeling are reasonably certain to be followed in practice * * *"

Also, section 512(d)(1)(D) requires the Secretary to refuse approval of an application if, based on the information submitted by the sponsor, or any other information before him, he has insufficient information to determine whether the drug is safe under the proposed conditions of use.

Supporting evidence of the agency's authority is found in section 512(i) of the act, which requires the agency to publish as a regulation a notice of approval for a new animal drug application. The regulation is to include, among other things, "* * * the conditions and indications of use * * * and such other information * * * as the Secretary deems necessary to assure the safe and effective use * * *" of the drug. Thus, the Bureau of Veterinary Medicine may limit approval of a new animal drug to the precise conditions for which it has been shown to be safe and effective. This includes appropriate restrictions on distribution and use.

The implementing regulations, which detail the requirements for evidence that must be submitted to demonstrate that a drug is safe and effective under section 512, require the applicant to submit data showing that the new animal drug will be safe and effective for the proposed conditions of use. (See 21 CFR 514.1(b)(8) and 514.111. See also 21 CFR 514.1(b)(3) (iii) and (iv), which establish specific requirements for veterinary prescription drugs.)

B. *Section 502.* Drugs approved under section 512 must also meet the "adequate directions for use" requirement of section 502(f)(1) unless exempted under 21 CFR 201.105(c)(2). That CFR section exempts veterinary prescription drugs subject to section 512 from "adequate direction for use," provided that the labeling is that authorized by the approved NADA.

Section 502(f)(1) of the act deems a drug to be misbranded unless its labeling bears adequate directions for use. Adequate directions for use means directions under which the layman can use a drug safely and for the purposes for which it is intended (21 CFR 201.5). When adequate directions for use of a drug are not necessary for the protection of the public health, section 502(f)(1) of the act permits the Secretary to promulgate regulations exempting the drug from this requirement.

The regulation, 21 CFR 201.105, exempts veterinary drugs from the adequate directions for use provision if such directions cannot be written because of the drugs' toxicity, method of use, or other potential for harmful effect. The exemption is conditioned on certain distribution and labeling requirements. The Sixth Circuit Court of Appeals has upheld the regulation in *United States* v. *Colahan*, 635 F.2d 564 (6th Cir. 1980).

C. *Criteria Developed by the Bureau of Veterinary Medicine.* In its implementation of the statute and regulations, the Bureau of Veterinary Medicine has in the past considered the following factors in determining whether a drug can be distributed OTC:

1. Criticalness of dosage (margin of safety of the drug to the target animal);
2. Accuracy of diagnosis required;
3. Seriousness of side effects associated with the drug;
4. Route of administration (intervertebral, intra-articular, etc.); and
5. Human safety hazards (communicable disease treatment such as scabies, rabies, blood parasites, etc.).

The foregoing criteria were operative at the time Philips Roxane filed its supplemental application. The Bureau of Veterinary Medicine has recently reorganized and elaborated on the criteria, and has published them in BVM Guide 1240.2220, "Classification of OTC and Rx Drugs," of the BVM Policy and Procedures Manual. The areas to be considered in deciding whether adequate directions for lay use can be written for an animal drug product are stated in the guide as follows:

1. *Safety of the drug to the target animal.* This includes (among other factors) margin of safety, anticipated number of adverse reactions when the product is used, and the ability of laymen to distinguish expected side effects.

2. *Safety to man.* This area includes consideration of whether misue could mask a disease communicable to man or cause changes in characteristics of such diseases, whether directions for use are reasonably certain to be followed in practice, and a number of other factors.

3. *Accuracy of diagnosis.* This involves, among other things, consideration of whether diagnosis of the condition is difficult and possibly easily confused with other conditions, and whether it is necessary that the signs of the disease be followed closely to determine need for adjustment of treatment.

4. *The drug itself.* Included are considerations such as potential for misuse in man or in animals other than the labeled species, and difficulty of administration by the labeled route(s) of administration (intravenous, stomach tube, etc.).

A copy of the BVM Guide 1240.2220 is being provided to the sponsor. The Director concludes that the denial of the supplemental NADA is correct whether measured by the original or the restated criteria.

IV. Bureau's Evaluation of the Drug

The basis for the classification of oxytocin as a prescription drug is as follows: Oxytocin is an extremely potent hormone which, when injected, stimulates both the uterus and the mammary gland. The drug is used to initiate parturition (birth), hasten completion of parturition once it has started, remove post-partum uterine debris, facilitate recovery from cesarean section, and stimulate milk letdown.

Oxytocin causes powerful uterine contractions. If the drug is to be used as an aid to the initiation of parturition, dilation of the cervix must be confirmed prior to its administration. Moreover, oxytocin should not be used during parturition if there is a uterine blockage due to fetal malpresentation (dystocia). The result in either instance could be uterine rupture and severe harm or even death to the mother as well as the unborn fetus. Oxytocin should not be used for milk letdown, therefore, until completion of parturition (or absence of dystocia) is confirmed.

Furthermore, the lack of milk release may be due to mastitis-metritis-agalactia (MMA). Mastitis-metritis-agalactia is a common term applied to a heterogenous disease complex associated with lactation failure. However, mastitis-metritis-agalactia is an apparent interplay among any of approximately 30 predisposing factors (e.g., infection, management and nutritional deficiencies, endocrine imbalances). Oxytocin is ineffective when used as the only treatment in these cases. Furthermore, its administration without proper adjunctive therapy (e.g., additional use of an antibacterial agent if there is a mastitis infection) will only delay effective treatment, resulting in prolonged illness and suffering for both the mother and the newborn.

The safe use of oxytocin may, therefore, require an obstetrical examination performed either by or under the direction of a veterinarian. In swine, for instance, because of variable numbers of piglets born, it is difficult to determine when farrowing is complete and not simply interrupted by a malpresentation of an unborn fetus. Correction of the position or presentation of the unborn fetus, or surgical intervention by cesarean section, may be necessary. Also, the

cause of mastitis-metritis-agalactia is difficult to diagnose, and may require veterinary intervention. The existence of a veterianian-client relationship is a precondition for safe use of oxytocin in the foregoing circumstances.

The various uses of oxytocin, in addition to milk letdown, are well-known to swine producers. These uses are also known among the producers of other animal species. In addition, oxytocin is approved as a human drug for induction of labor;[2] stimulation or reinforcement of labor; adjunctive therapy in the management of incomplete or inevitable abortion; and for several post-partum indications. Thus, the approval for OTC sale for a single use in one animal species raises questions as to the possible diversion to unapproved uses in the same and other species including man.

Philips Roxane's application must be evaluated in light of the foregoing analysis, because the firm has the burden of showing that the proposed OTC use is safe.

V. Analysis of the September 22, 1978 Supplement to NADA 99-169

The firm presented the following documents in support of its application:

1. A report of the panel at the Colloquium on Bovine Mastitis (*Journal of the American Veterinary Medical Association* 170:626-632, 1977).

Philips Roxane noted that the report states that "the FDC Act requires that drugs approved for interstate marketing must be allowed to be sold to laymen unless adequate directions for lay use cannot be written, or if a potentially harmful effect can be associated with use by non-professional persons."

The Director of the Bureau of Veterinary Medicine agrees with the statement. The statement, however, begs the question as to whether adequate directions can be written for lay use for the indication proposed by the firm for the drug oxytocin.

2. A letter from BVM outlining the criteria it uses to determine the prescription or OTC status of a drug (see previous discussion).

The firm responded to the criteria as follows:

a. *Criticalness of dosage (margin of safety of the drug to the target animal).* Philips Roxane referred to the approved dosage for milk letdown in sows (5-20 USP units) and stated that the 400 percent spread was evidence of the noncritical dosage for the drug. The firm also mentioned a study (discussed below) in which 32 postparturient sows were injected with 60 USP units of oxytocin and observed for 7 days with no unfavorable reactions in sows or baby pigs.

The Director agrees that FDA has approved a wide range in the dosage of oxytocin for milk letdown in sows. However, there is evidence (discussed below) that dosages under 20 USP units cause uterine contractions. The study cited by the firm did not establish a dosage that is effective in stimulating milk letdown, and that does not also stimulate the musculature of the uterus. Therefore, while the precise dosage of oxytocin is not critical with regard to its effectiveness for milk letdown, it is critical with regard to its safe use in parturient sows.

b. *Accurancy of diagnosis required.* Philips Roxane stated that milk letdown in sows after farrowing is a condition that is well understood by the swine producer.

Although the Director agrees that the swine producer understands the need for milk letdown, he does not agree with the implications of the sponsor's statement. Because of the difficulty of diagnosing dystocia and mastitis-metritisagalactia, the average producer is not capable, without professional assistance, of using the drug without risking occurrence of he problems described elsewhere in this notice.

c. *Seriousness of side effects associated with the drug.* Philips Roxane referred to its 60 USP unit dosage study in sows, which showed no side effects, and a literature search conducted by Dr. E. Murl Bailey, Jr., of Texas A&M University. The firm also stated that its field survey of swine raisers, and BVM's survey of reported adverse reactions, revealed no problems.

The Director finds that the Philips Roxane study was conducted under the supervision of a veterinarian and that the sows had completed farrowing before oxytocin was used. In addition, Dr. Bailey has advised the Bureau that he did not conduct an extensive literature search, but rather only a brief review of standard references in response to a telephone inquiry from the firm. Furthermore, although Dr. Bailey stated that he was not aware of adverse reactions, he also stated that oxytocin is contraindicated in the presence of dystocia due to abnormal presentation of the fetus. BVM agrees that its files contain reports of only a few adverse reactions, and that the firm's field study did not reveal any adverse findings. However, these observations only support the safe use of oxytocin as it is currently marketed (i.e., as a prescription drug).

The firm has not established, therefore, that there are no serious side effects associated with the OTC use of oxytocin in swine.

d. *Route of administration.* Philips Roxane submitted references indicating the drug is effective by intravenous, intramuscular, or subcutaneous routes.

The Director agrees that oxytocin is effective when administered by intravenous, intramuscular, or subcutaneous routes. He notes, however, that drugs cannot be administered safely by the layman if they are to be administered intravenously to swine.

e. *Human safety hazard.* Philips Roxane stated that because oxytocin is not a controlled substance in human medicine the drug is not recognized as subject to social abuse.

The Bureau agrees that oxytocin is not a "controlled substance" (e.g., narcotic, amphetamine, barbiturate, hallucinogen, etc.) subject to the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801)). However, the distribution of oxytocin for human medicine is also restricted in that it may only be dispensed for use by prescription. The firm did not submit any evidence to show that oxytocin would not be diverted to human use if it were sold OTC.

3. A Philips Roxane study titled "Evaluation of the Intramuscular Injection of 3 ml (60 units) of Veterinary Oxytocin Injection, USP, Double USP Potency, Into Sows." Thirty-two sows were given three times the maximum recommended dose for milk letdown (3 mL or 60 units) of oxytocin on the day of farrowing, but after completion of farrowing, were observed for adverse effects for a minimum of 7 days. No adverse effects were found.

The Director agrees that oxytrocin has a wide margin of safety when given to sows that have in fact completed farrowing and are suffering from uncomplicated agalactia. However, if milk letdown is due to mastitis-metritis-agalactia, use of oxytocin alone could be unsafe because it would prevent necessary adjunctive therapy. This study was done under veterinary supervision and, therefore, does not prove that adequate directions can be written for safe OTC use but reinforces the fact that veterinary supervision is preferable.

4. A literature review by Dr. E. Murl Bailey, Jr., and field use survey for possible side effects associated with oxytocin administration is sows for milk

[2] Labeling for the drug bears a notice stating that oxytocin is indicated for the medical rather than elective induction of labor; available data are inadequate to define the benefits-to-risk considerations for use in elective abortions.

letdown. These submissions have been discussed above.

5. An article entitled "Some Observations on the Use of Synthetic Oxytocin in Sows" by Straub and Gutte (*Journal of the American Veterinary Medical Association*, pp. 171–174, August 1, 1959). A 3-year-old sow that had farrowed her fifth litter without assistance was used to show the effect of synthetic oxytocin on the uterus 30 hours postpartum. Prior to administration, the uterus, exposed by laparotomy, was flaccid and dark red. Three minutes after an intravenous injection of 5 units of oxytocin, the uterus was strongly contracted and ischemic.

The experiment indicates the dramatic effect of even a relatively small dose (at the bottom of the range recommended for milk letdown) of oxytocin on the uterus of a recently farrowed sow. It lends support to the Bureau's position that the applicant has not demonstrated that there is a dosage at which oxytocin can be used for milk letdown but which would not cause uterine contraction.

6. An article on the use of oxytocin in sows that appeared in the *National Hog Farmer* (July 15, 1978).

In answer to swine producer's questions regarding the use of oxytocin, R. E. Hall, D.V.M. of the University of Wisconsin stated that oxytocin is rapidly destroyed in the sow and its effect lasts only a few minutes; that using oxytocin at 2 to 4 hour intervals is not known to cause internal stress; that oxytocin should be used only when the cervix is dilated; that he was unware of any case in which major blood vessels were ruptured by the use of oxytocin; that repeated injections do not cause addition or dependence in further farrowings; and that the labeled dosage for milk letdown was 5–20 units, and to contract the uterus, 30–50 units.

The Director does not disagree with the statements made in this article, except to the extent that it implies that uterine contractions do not occur when less than 30 units is administered. Also, the Bureau contends that an obstetrical examination by a veterinarian may be needed to assure that the cervis is dilated and that sow has finished farrowing, and that these examinations must be performed by or under the supervision of a licensed veterinarian.

7. An article entitled "Haemodynamic Effects of Oxytocin (Syntocinon) and Methyl Ergometrine (Methergin) on the Systemic and Pulmonary Circulations of Pregnant Anaesthetized Women" by Secher, Arnsbo and Wallin. (*Acta Obstetrica et Gynecologica Scandinavica (Stockholm)* 57: 97–103, 1978).

The sponsor submitted the study in general support of the safety of the drugs.

The Director concludes that the haemodynamic (blood pressure) effect of oxytocin on the post-parturient uterus of sows do not generally cause concern at the dosage levels proposed. However, this fact has no bearing on the issues posed by the supplemental application.

8. A telephone survey of the use of oxytocin by swine raisers for milk letdown in sows. The survey was conducted by Doane Agriculture Service, Inc., St. Louis, Missouri. The firm contacted 96 swine producers in 22 of the major hog producing states. The survey covered use of oxytocin by the swine raiser or an assistant.

Philips Roxane stated that the survey showed that (1) the swine raiser determined the need for oxytocin for milk letdown 80 percent of the time; (2) the swine raiser administered the oxytocin 93 percent of the time; (3) a veterianarian observed the animals prior to the use of oxytocin only 7 percent of the time; and (4) the swine owner determined the dosage from the label instructions or from past experience 52 percent of the time (47 percent relied to some degree on the veterinarian); and that problems developed from the use of oxytocin only 2 percent of the time.

The validity of the conclusions drawn from any survey depends on whether the surveyed group is a microcosm of the total population. The description of the survey design provided no indication that the persons interviewed were selected in a manner which would assure that they represented a statistically valid sample of all swine raisers using oxytocin. Additionally, the introductory telephone statement read by the interviewer was leading. In particular, the sentence "One of our client companies is interested in getting an over-the-counter clearance for oxytocin" may have influenced the responses to some of the questions. It is a common failing in a questionnaire type survey for an interviewee to guess at the preferred response based on introductory remarks made by the interviewer, and to respond in the preferred manner.

Also, 34 of the 96 swine raisers interviewed voluntered that they use oxytocin for purposes in addition to milk letdown, such as to induce farrowing, lesson infection, and eliminate uterine debris after farrowing.

The Director concludes that, even if the survey had been conducted in a valid manner and there were in fact no adverse effects, its results do not prove that the drug can be used safely OTC. The Bureau does not contend that a veterinarian must be present in all instances at the time the drug is administered. What is significant is the existence of a veterinarian-client relationship through which the veterinarian has previously determined the herd history, the conditions on the farm and the management skill of the operator. The survey did not provide any informaton that would allow analyses of the veterinarian-client relationship. Also, the extensive use for other purposes, shown by the survey, is likely to increase if the drug is sold OTC.

9. Interviews of two academic veterinarians and two large animal veterinary practitioners on their usage of oxytocin for milk letdown in gilts and sows. Sixty to ninety-five percent of the oxytocin dispensed by these veterinarians is for use in swine. The inteviewer found that these veterinarians recommend 40–60 USP units of oxytocin for milk letdown, and that they knew of no adverse effects resulting from such use.

The Director believes that the safe use of oxytocin as shown in the survey is directly related to the professional services rendered by veterinarians for the product under its current prescription status. Also, the use of oxytocin at dosage levels recommended on the label for indications requiring uterine contractions supports the Director's position that complications may occur when the drug is used for milk letdown and farrowing is not complete.

10. An article entitled "The Reactivity of the Ruminant Uterus to Posterior Pituitary Hormones" by Fitzpatrick (*Journal of Comparative Pathology*, 70: 36–58, 1960).

The article describes experiments evaluating the effect of intravenous and intramuscular injections of oxytocin on the uterine musculature of both pregnant and non-pregnant cows and sheep. The experiments demonstrated that the cow's uterus is more sensitive to oxytocin towards the end of pregnancy than in the earlier stages of pregnancy. Pronounced responses to oxytocin were detected after 1.0 unit or less was administered toward the end of pregnancy, whereas this dose at mid-pregnancy produced only very feeble responses.

The Director agrees that the sensitivity of the uterus to the action of oxytocin is greatest at the time of parturition. The study dramatizes the increased sensitivity of the uterus to the

action of even small doses of oxytocin at the end of pregnancy.

11. A telephone survey of 50 swine raisers in 15 states concerning the economic and animal health impact of the prescription status of oxytocin.

This telephone survey was conducted as a supplement to the initial April 1978 survey (see item 8 above). The proposes were to determine if the swine raiser would consider OTC sales of oxytocin purchased through a veterinarian. Eighty-three percent of the respondents favoring OTC status for oxytocin gave lower price as the reason, while only 14 percent listed better product availability.

The statutory standards for determining whether a drug can be sold OTC are set forth in sections 512 and 502(f)(1) of the act, as discussed above. Convenience and price are not included in these standards. The Bureau notes, however, that the majority of swine-producing areas have emergency veterinary services, including prescription dispensing services, available at all hours. Moreover, veterinarians are often willing to dispense oxytocin prior to the onset of farrowing, provided that a veterinarian-client relationship is established, the veterinarian is aware of the conditions in the herd as well as the knowledge and experience of the herds man, and telephone contact can be made in case of emergency. Therefore, the Director sees no hardship in maintaining the distribution of this drug on a prescription basis.

VI. Conclusion

A. *Summary of Standards and Evidence.* Section 512(d) of the act, and § 514.111 *Refusal to approve an application* [21 CFR 514.111], require FDA to refuse to approve an NADA or a supplement when the application does not include adequate tests by all methods reasonably applicable to show whether or not such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; or if on the basis of the information submitted and other information, there is insufficient information to determine whether the drug is safe for use under such conditions. In determining whether a drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling, section 512(d)(2)(D) of the act requires the agency to consider whether the conditions of use prescribed, recommended, or suggested in the proposed labeling are reasonably certain to be followed in practice. These statutory criteria are applicable in the consideration of an application to label a drug for OTC distribution. (See the Benylin decision, *supra*, 44 FR at 51534 et seq.)

If a drug does not bear adequate directions for use by laymen, it is misbranded unless exempted under provisions of 21 CFR 201.105, i.e., it must be labeled and distributed as a prescription drug.

Therefore, Philips Roxane must establish that oxytocin injection can be used safely by laymen for milk letdown in sows, and that the conditions of use in the proposed labeling are reasonably certain to be followed in practice.

Philips Roxane has not submitted any data to demonstrate that oxytocin at the recommended dosage of 5–20 USP units for milk letdown in sows after farrowing as proposed in the labeling will not affect a sensitized uterus. In addition, the firm has not provided sufficient evidence to show that veterinary supervision is not required in view of the complications that can occur, e.g., dystocia and mastitis-metritis-agalactia.

Additionally, Philips Roxane has not submitted any data or information to establish that the label directions (for *milk letdown in sows after farrowing*) are reasonably certain to be followed in practice by swine producers. In fact, 34 out of the 96 swine raisers questioned in one of the telephone surveys voluntarily stated that they were using oxytocin for conditions other than, or in addition to, milk letdown. Thus, use for these conditions may increase if the drug is sold OTC. The firm has not established that the drug, if used by swine producers without veterinary supervision, will not be used for other purposes.

Oxytocin has been marketed for many years and its pharmacological effects are widely known. The drug is labeled for prescription use in species other than swine, including horses, cows, sheep, dogs, and cats. The precautions and contraindications discussed above are applicable in all these species. The agency believes that if oxytocin were available OTC, even though labeled only for milk letdown in sows, it would be used in other species with potentially hazardous consequences. This is particularly true with respect to use in the canine and equine species. Again, the firm has not presented evidence to show that the label directions are reasonably likely to be followed in practice.

Finally, the Director notes that while there appears to be difference of opinion among the experts, there is some concern among knowledgeable individuals about possible misuse of the drug in humans if it were to be sold OTC. The Director believes that the concern is of a sufficient level so as to require the applicant to provide evidence that harmful diversion is not likely to occur.

For the foregoing reasons, the Director concludes that oxytocin labeled for milk letdown in sows after farrowing for OTC distribution has not been shown to be safe under the conditions of use prescribed, recommended, or suggested in the proposed labeling.

B. *Opportunity for Hearing.* Therefore, the Director announces his refusal to approve the supplement to NADA 99–169 for the OTC marketing of oxytocin injection labeled for milk letdown in sows after farrowing, on the grounds that the proposed use has not been shown to be safe under section 512(d) of the act, and the applicant has not shown that adequate directions for use can be written as required by section 502(f) of the act.

If the applicant or any other interested person elects to avail itself (themselves) of an opportunity for a hearing pursuant to section 512(c) of the act (21 U.S.C. 360b(c)) and 21 CFR 514.200, the party must file with Dockets Management Branch, (address above) a written appearance requesting such a hearing by October 19, 1981. Such person(s) must also give reasons why approval of the application should not be refused, and provide a well-organized and full-factual analysis of the scientific and other investigational data that such persons are prepared to prove by November 17, 1981 in support of their opposition to the Director's refusal to approve.

The failure of the applicant to file a timely written appearance and request for hearing as required by 21 CFR 514.200 constitutes an election not to avail itself of the opportunity for a hearing, and the Director of the Bureau of Veterinary Medicine will summarily enter a final order refusing to approve the application.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific face showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact that precludes the refusal to approve the application, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice must be filed in quintuplicate with the Dockets Management Branch. Except for data and information prohibited from public disclosure, pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, responses to this notice and copies of publication literature cited in this notice may be seen in the Dockets Management Branch, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

If a hearing is requested and is justified by the applicant's response to this notice of opportunity for hearing, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will commence will be issued as soon as practicable.

Any hearing on the refusal to approve this new animal drug application will be open to the public. If, however, the Director finds that portions of the application that serve as a basis for such hearing contain information concerning data that are entitled to protection as a trade secret, that part of the hearing will not be public, unless respondent so specifies.

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

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84).

Dated: September 4, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-27195 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81N-0087]

Potassium Iodide as a Thyroid-Blocking Agent in Radiation Emergency; Draft Recommendations on Use

AGENCY: Food and Drug Administration.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) announces an extension of the comment period on its draft recommendations about administering potassium iodide to the general public in a radiation emergency. FDA is responding to requests from the National Council on Radiation Protection and Measurements (NCRP) and the Chairman, Environmental Hazards Committee American Thyroid Association.

DATE: Comments by October 5, 1981.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:
Bernard Shleien, Bureau of Radiological Health (HFX–4), Food and Drug Administration, 5600 Fishers Lane Rockville, MD 20857, 301–443–6220, or
Edwin V. Dutra, Jr., Bureau of Drugs (HFD–30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6490.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 5, 1981 (46 FR 30199), FDA issued a notice announcing the availability of draft recommendations about administering potassium iodide to the general public in a radiation emergency. The draft recommendations prepared by the Bureau of Radiological Health and the Bureau of Drugs were made available for public comment to provide FDA with views to be considered for incorporation into any final recommendations that the agency may develop on this use of potassium iodide. The comment period was to close on September 3, 1981.

One purpose of the draft recommendations is to facilitate a national consensus on the use of potassium iodide during a radiation emergency. Before the date the comment period was to close, FDA received a request from NCRP for an extension of the comment period because of the complexity and importance of the issues involved and because NCRP's staff would not complete its final review of its comments by September 3, 1981. FDA also received a request for an extension from the American Thyroid Association because they would not be able to submit their comments until September 25, following their annual meeting. FDA believes that additional time for preparing and submitting meaningful and carefully constructed comments on the draft recommendations is in the public interest. Therefore, FDA is granting a 30-day extension of the comment period to October 5, 1981.

Interested persons may, on or before October 5, 1981, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding the draft recommendations. Two copies of each comment are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number 81N–0087. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 14, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs

[FR Doc. 81-27193 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

Preamble Compilation; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of another volume and three cumulative pocket supplements of the preamble compilation. The volume contains significant preambles of published Federal Register documents relating to Biological Products regulations, from March 1936 through March 1978. The three cumulative pocket supplements to the preamble compilation are for published Federal Register documents relating to Biological Products, Radiological Health, and Medical Device regulations, from April 1978 through March 1980.

ADDRESS: The volume relating to Biological Products and the three cumulative pocket supplements may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT:
Lola Batson, Federal Register Writer's Office (HFC–11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: The preamble compilation series has been structured around the current organizational scheme for Food and Drug Administration regulations issued under Chapter I of Title 21 of the Code of Federal Regulations. This compilation is part of a comprehensive effort to make available to the public and the agency a central source for trading, by subject, the historical development of agency regulations.

Each volume of the preamble compilation will be updated with an annual cumulative pocket supplement. The agency will publish in the Federal Register a notice of availability for each volume and pocket supplement as they become available.

The Biological Products volume and the pocket supplements for Biological Products, Radiological Health, and Medical Devices may be purchased for the price listed below from the Superintendent of Documents (address above). To order, reference the GPO stock No. listed below.

Subject	GPO stock No.	Price
Biological Products (Mar. 1936 through Mar. 1978)	017-015-00186-5	$16.00
Biological Products (Apr. 1978 through Mar. 1980)	017-015-00190-3	4.00
Radiological Health (Apr. 1978 through Mar. 1980)	017-015-00196-2	4.50
Medical Devices (Apr. 1978 through Mar. 1980)	017-015-00195-4	8.00

Dated: September 14, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-27192 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 76N-0315; DESI 8200]

Revised Marketing Requirements for Radioactive Preparations Containing Therapeutic or Diagnostic Sodium Iodide I-131; Drugs for Human Use; Drug Study Implementation; Followup Notice

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice states the revised marketing requirements for persons who do not now hold an approved new drug application (NDA) for sodium iodide I-131. Full NDA's are now required for these drug products and abbreviated new drug application (ANDA's) will no longer be acceptable.

EFFECTIVE DATE: September 18, 1981.

ADDRESSES: Communications in response to this notice should be identified with the DESI number appearing in the heading of this notice and directed to the attention of the appropriate office named below:

Original full NDA's and supplements thereto (identify as such): Division of Oncology and Radiopharmaceutical Drug Products (HFD-150), Rm. 17B-45, Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In the DESI notice published in the Federal Register of September 13, 1976 (41 FR 38800), for sodium iodide I-131 drug products listed below, the marketing conditions for non-NDA holders stated that an ANDA (21 CFR 314.1(f)) is required from any person who wishes to market such a drug product and does not already have an approved NDA. Upon reevaluation of this requirement, the agency has determined that full NDA's are required for sodium iodide I-131 drug products. Full NDA's are needed in order to provide clinical biodistribution data and dosimetry data since in the final product biologic properties are affected by the source of the radionuclide and any associated impurities, the specifications for the radionuclide, and the specifications for the final dosage form. No ANDA's have been submitted for sodium iodide I-131 pursuant to the September 13, 1976 notice.

1. *NDA 8-200;* Sodium Iodide I-131 Sterile Solution, Radiocaps-131 Capsules, Tracervial 131 Sterile Solution, Oriodide-131 Oral Solution, and Theriodide-131 Capsules, all containing sodium iodide I-131; marketed by Abbott Laboratories, Abbott Park, 14th & Sheridan Rd., N. Chicago, IL 60064.

2. *NDA 10-929;* Iodotope Capsules 1-60 mCi, 6 mCi; Oral Solution 5-50 mCi/mL; and Injection 0-1,000 uCi/mL, 30 uCi/bottle, 50 uCi/bottle, all containing sodium iodide I-131; marketed by E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540.

3. *NDA 16-515;* Sodium Iodide I-131 Therapeutic Solution 3.5-150 mCi/vial; marketed by Mallinckrodt Chemical Works, Pharmaceutical Division, P.O. Box 5439, St. Louis, MO 63147.

4. *NDA 16-517;* Sodium Iodide I-131 Capsules 0.75-20 mCi, 15-100 uCi; marketed by Mallinckrodt Chemical Works.

The indications for which these drug products are effective were announced in the September 13, 1976 notice. Marketing before approval of an NDA will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053 as amended (21 U.S.C. 352, 355)), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: September 9, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-26367 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 78N-0200; DESI 10029]

Tarcortin Cream; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is withdrawing approval of the new drug application (NDA 10-029) for Tarcortin Cream containing hydrocortisone 0.5 percent and coal tar extract 5 percent; Reed and Carnrick Pharmaceuticals, 30 Boright Ave., Kenilworth, NJ 07033. The basis of the withdrawal is that there is a lack of substantial evidence that the coal tar component of the combination product contributes to the total effects claimed. The drug is used topically in the treatment of certain skin disorders.

EFFECTIVE DATE: September 28, 1981.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 10029 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jean A. Peeler, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fisher Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the Federal Register of December 9, 1980 (45 FR 81122), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the new drug applications for certain topical drug products containing hydrocortisone and coal tar extract. The proposed order was based on lack of substantial evidence that the coal tar ingredient in the combinations is effective. As the holder of the following new drug application did not request a hearing, approval of this application is now being withdrawn.

NDA 10-029; Tarcortin Cream containing hydrocortisone 0.5 percent and coal tar extract 5 percent; Reed and Carnrick Pharmaceuticals, 30 Bonght Ave., Kenilworth, NJ 07033.

Any drug product that is identical, related, or similar to the drug product named above and that is not the subject

of an approved new drug application is covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

The holder of the new drug application named below has requested a hearing concerning its drug products. The request for hearing is under review.

NDA 10-452; Supertah H-C Ointment containing hydrocortisone 0.5 or 1 percent, coal tar extract 1.25 percent, and stearyl alcohol 14.8 percent; the Purdue Frederick Co., 50 Washington St., Norwalk, CT 06856.

Marketing of those drug products for which a hearing request is under review may continue pending a ruling on the request.

No other person filed a written appearance of election as provided by the December 9, 1980 notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82) finds that, on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the combination drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of NDA 10-029, and all amendments and supplements applying thereto, is withdrawn effective September 28, 1981.

Shipment in interstate commerce of the above product or of any identical, related, or similar product that is not the subject of an approved new drug application, except for the ones described above that may continue to be marketed pending rulings on the request for a hearing, will then be unlawful.

Dated: September 9, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-26868 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81N-0080; DESI 7337]

Wyeth Laboratories; Opportunity for Hearing on Proposal To Refuse To Approve Supplemental New Drug Application for Oral Combination Drugs Containing Meperidine Hydrochloride and Promethazine Hydrochloride

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: The Director of the Bureau of Drugs proposes to refuse to approve a supplemental new drug application providing for Mepergan Fortis Capsules containing meperidine hydrochloride 50 milligrams (mg) and promethazine hydrochloride 25 mg on the ground that the application does not contain any adequate and well-controlled clinical investigations which meet the efficacy requirements of the statute and regulations. The drug is used for moderate to moderately severe pain.

DATES: Hearing requests due on or before October 19, 1981. In support of a request, all data and information relied upon to justify a hearing are due on or before November 17, 1981.

ADDRESS: Communications in response to this notice should be identified with the Docket number appearing in the heading of this notice, and addressed to: Dockets Management Branch (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of July 9, 1966 (31 FR 9426), FDA requested that each holder of a new drug application that became effective before October 10, 1962, submit to FDA reports containing the best data available in support of the effectiveness of each such product for the claimed indications. That information was needed to facilitate a determination by FDA, with the assistance of the National Academy of Sciences-National Research Council (NAS-NRC), whether each claim in the labeling is supported by substantial evidence of effectiveness, as required by the Drug Amendments of 1962.

In response, Wyeth Laboratories, Division of American Home Products Corp., P.O. Box 8299, Philadelphia, PA 19101 (Wyeth), holder of a new drug application (NDA 11-730) for Mepergan Injection, also submitted data for two products that were not the subject of an approved NDA: Mepergan Fortis Capsules containing meperidine hydrochloride 50 mg and promethazine hydrochloride 25 mg and Mepergan Capsules containing meperidine hydrochloride 50 mg and promethazine hydrochloride 12.5 mg.

In a notice (DESI 7337) published in the Federal Register of April 20, 1972 (37 FR 7827), FDA announced its conclusion that the two oral drug products are less than effective (possibly effective) for moderate to moderately severe pain.

On September 5, 1972, in response to the April 20, 1972 notice, Wyeth submitted a supplement to its approved NDA 11-730 (Mepergan Injection) to provide for Mepergan Fortis Capsules. The supplement also provided for a modified statement of the indication. It contained no new studies, but consisted of seven published reports of clinical studies involving Mepergan Fortis Capsules that Wyeth had previously submitted, and a statistical reanalysis of the data from those studies. In a letter dated May 24, 1973, the Bureau of Drugs informed Wyeth that the supplemental application was incomplete in that it failed to contain full reports of adequate tests by all methods reasonably applicable to show whether or not the drug is safe and effective for use as prescribed, recommended, or suggested in the proposed labeling. The letter stated that six of the seven papers submitted were irrelevant to the issue and the seventh (Dr. Kolodny) had already been reviewed and found inadequate by the NAS-NRC panel on Drugs for Relief of Pain. On May 2, 1980, FDA again wrote to Wyeth stating that the information Wyeth had submitted was inadequate and therefore the supplemental application could not be approved.

Wyeth responded by requesting that the agency reconsider its nonapproval action and further claimed that the proper indication for Mepergan Fortis, the one currently being used in the drug product's labeling, is "Affords sedation as well as analgesia for moderate pain as seen in postoperative patients, postpartum patients, and in patients with pain associated with malignancies." Wyeth further stated that it did not claim that the promethazine ingredient potentiates or enhances the analgesic effects of the meperidine ingredient in the combination product, but rather that Mepergan Fortis provides the dual effects of analgesia (provided by meperidine) and sedation (provided by promethazine) for use when those concurrent effects are therapeutically required. In light of Wyeth's request,

FDA has again evaluated the data submitted consisting of seven articles, and presents the following critique of the studies.

1. Kolodny, A. L., "Interrelation of Mood Change and Analgesic Response: Analgesic Therapy With and Without Phenothiazine Agents," *Current Therapeutic Research* 4:37–43, 1962.

This study compared the analgesic effects of Mepergan Fortis (meperidine and promethazine), meperidine with propiomazine, meperidine alone, and placebo. This was a double-blind, randomized study on 160 outpatients with moderate to severe pain. The only response evaluated in the study was the analgesic response. The patients were given the test drugs for 1 to 7 days, with 65 percent receiving medication for 6 days. The study showed satisfactory analgesia with all three test drugs and a positive placebo response in 28 percent of the 40 patients receiving the placebo. The drug of choice was Mepergan Fortis.

This study cannot be used to demonstrate effectiveness of Mepergan Fortis for its claimed uses because it did not study the population for which the drug product is intended nor did it study all of the claimed effects of the combination. (21 CFR 314.111(a)(5)(ii)) It also did not satisfy the requirements of the combination drug policy (21 CFR 300.50). For a study to meet the requirements of the combination drug policy, it must show that each ingredient of the combination contributes to the claimed effects of the combination and that the combination product provides some benefit not obtained from the individual ingredients used alone. With respect to analgesia, the study shows only that promethazine does not contribute to the analgesic effect when it was added to meperidine. The study did not evaluate the possible contribution of promethazine to sedation. It therefore fails to show any contribution for the promethazine component. Apart from the combination question, although the study was well-designed for its purpose (examining the role of phenothiazine agents in pain relief and the patients may have been suitable for the intent of the study, they were not suitable for the labeled indication. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*). The labeling offers Mepergan in "postoperative patents, postpartum patients, and in patients with pain associated with malignancies." The patients in this study were extremely diverse and included patients presenting numerous other types of pain. In fact, 44 percent of the patients had trauma; others were stated to have arthritis, rheumatic disabilities, pleural and pulmonary disease, headache, bilary disorders, dysmenorrhea, infections, uretal calculi, and neurologia. Under these circumstances, there can be no assurance that the results in the patients can be extrapolated to the patients described in the labeling.

2. Hashkes, H. R., "Clinical Experience with Promethazine and Meperidine in Relief of Pain," *"Clinical Medicine* 69:1587–1590, 1962.

This study compared the analgesic effect of Mepergan Fortis and aspirin on 129 patients with moderate to severe pain due to a variety of medical conditions. The study showed significant difference in the relief of pain between Mepergan Fortis and aspirin. However, this study cannot be used to demonstrate effectiveness of Mepergan Fortis because it does not satisfy the requirements of the combination drug policy. 21 CFR 300.50. This study did not include control groups receiving either meperidine alone or promethazine alone. Without such groups, it is impossible to establish the individual analgesic or sedative effects of these ingredients and determine their contribution to the combination product. Morever, as in the previous study, the only response reported was the analgesic response. This study obviously, therefore, cannot be used to demonstrate the effectiveness of the components or the combination for sedation.

3. Glessner, J. R. and H. Allis, "Replacement of Injectable With Orally Administered Analgesic Agents After Surgery," *Anethesia and Analgesia; Current Researches* 43: 356–359, 1964.

This study compared the analgesic effects of meperidine injection with an oral preparation of meperidine and promethazine (Mepergan Fortis) on 26 postoperative patients. The investigators concluded that there was no significant difference between the test drugs. This study also failed to include separate control groups receiving only oral promethazine and oral meperidine, and also reported results only with regard to analgesic effects of the test regimens. Accordingly, like the previous studies, it too fails to meet the criteria of the combination drug policy (21 CFR 300.50) and the statute (21 U.S.C. 355(d)).

4. Mannerelli, A. A., "Comparison of Potency of Injectable Meperidine and Promethazine-Meperidine Capsules in Post-Operative Pain," *Journal of the American Osteopathic Association* 63:1034–1037, 1964.

This double-blind, crossover study compared the analgesic effect of Mepergan Fortis with that of meperidine injection, 100 mg, in 72 postoperative patients. The investigator concluded that the drugs were equipotent. This study also failed to include a control group receiving oral promethazine alone or a group which received oral meperidine alone; it also failed to draw any conclusions regarding the sedative effect of either component. Accordingly, for the same reasons stated above, this study cannot be used to demonstrate effectiveness of Mepergan Fortis. 21 CFR 300.50; 21 U.S.C. 355(d).

5. Pena, E., "Comparison of Oral Promethazine-Meperidine with Injectable Meperidine for Relief of Post-Operative Pain," *Obstetrics and Gynecology* 25:72–75, 1965.

This study compared the analgesic effect of Mepergan Fortis with that of meperidine injection in 62 patients with post operative gynecological pain. The investigator concluded that Mepergan Fortis was as effective as meperidine 100 mg injection. For the same reasons stated in each of the foregoing studies, this study cannot be used to demonstrate effectiveness of Mepergan Fortis. In addition, the author failed to explain how subjects were assigned to test and control groups, 21 CFR 314.111(a)(5)(ii)*(a)(2)(ii)*, and to provide information regarding pertinent patient characteristics (such as age or severity of pain, 21 CFR 314.111(a)(5)(ii)*(a)(2)(iii)*). Without this information, it is impossible to tell whether the makeup of the test and control groups did not bias the results of the study.

6. Ullery, J. C. and R. Kah, "Clinical Trial of an Oral Meperidine-Promethazine Combination in Labor," *Current Therapeutic Research* 7:361–364, 1965.

In this study, 53 women in labor received either Mepergan Capsules or Mepergan Fortis Capsules for relief of pain and to reduce anxiety. The investigators concluded that pain was adequately controlled in 52 patients and anxiety in 46 patients. This study is patently inadequate because no control group of any kind was used. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*). In addition, because there were no groups receiving promethazine alone or meperidine alone, the study cannot satisfy the requirements of the combination policy. 21 CFR 300.50.

7. Ullery, J. C. and R. Kah, "The Use of Mepergan for Relief of Pain in Gynecologic Tumor Patients," *Current Therapeutic Research* 6:385–388, 1964.

In this study, 54 gynecologic tumor patients received Mepergan Capsules to control their pain. The investigators concluded that all patients showed significant relief of pain. They also comment in passing that these patients

had less nausea and vomiting and required a lower total dosage of narcotic than another group of patients who were receiving meperidine alone. The portion of this study which assesses pain relief is totally uncontrolled because all patients were taking the test drug. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*). The portion of the study which attempts to compare the combination drug with meperidine is plainly inadequate because no information is given about the meperidine group (e.g., how patients were assigned to that group, what their characteristics were, how much meperidine they received). 21 CFR 314.111(a)(5)(ii)(*a*)(*2*) (*i*), (*ii*), and (*iii*). Also, of course, no methods were used in this portion of the study to minimize bias on the part of the observers or analysts of the data. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*). Finally, this study also failed to include a group taking promethazine alone or to report any quantitative information regarding the sedative effect of the combination. 21 CFR 300.50.

In summary, not one of the above studies demonstrated that each ingredient of this combination contributes to the effects claimed for it. 21 CFR 300.50. In fact, none of the studies even attempted to demonstrate that the combination product had a sedative effect at all. Because both promethazine and meperidine are known to have a sedative effect, it is important to determine what role each component plays in producing this effect. For example, it may well be that meperidine alone will produce substantially the same sedating effect without promethazine. These studies, therefore, do not constitute substantial evidence of effectiveness of Mepergan administered orally for the indications recommended in the labeling.

In its June 11, 1980 letter, Wyeth also contended that it believed the agency was inconsistent in classifying Mepergan Injection as effective and Mepergan Fortis Capsules as lacking evidence of effectiveness for an almost identical indication.

Wyeth's argument is without merit. Mepergan Injection, containing meperidine hydrochloride 25 mg and promethazine hydrochloride 25 mg, has been evaluated as effective for use as a preanesthetic medication before general anesthesia. This indication is not related to the indication of Mepergan Fortis Capsules. These dosage forms have different indications, different ratios of active ingredients, and are used on different patient populations. In fact, the oral dosage form could not be used as a preanesthetic medication because oral preparations are not administered before general anesthesia.

On the basis of all the data and information available, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, that meets the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), 21 CFR 314.111(a)(5), and 21 CFR 300.50.

Therefore, notice is given to Wyeth Laboratories that the Director proposes to issue an order under section 505(d) of the act (21 U.S.C. 355(d)), refusing to approve the supplement to NDA 11-730 providing for Mepergan Fortis Capsules on the ground that the information submitted to him as part of the supplemental application shows there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling.

In addition to the ground for the proposed refusal to approve stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug product subject to it; for example, any contention that any product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act, or that it is exempt from part or all of the new drug provisions of the act under the 1938 or 1962 grandfather provisions.

In accordance with section 505 of the act and the regulations issued in 21 CFR Parts 310 and 314, Wyeth is hereby given an opportunity for a hearing to show why approval of the supplemental new drug application should not be refused and an opportunity to raise, for administratative determination, all issues relating to the legal status of the drug product named above.

If Wyeth elects to avail itself of the opportunity for a hearing, it shall file (1) on or before October 19, 1981, a written notice of appearance and request for hearing, and (2) on or before November 17, 1981, the data, information, and analyses on which it relies to justify a hearing, as specified in 21 CFR 314.200. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of Wyeth to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by Wyeth Laboratories not to make use of the opportunity for a hearing concerning the action proposed with respect to the drug product and constitutes a waiver of any contentions concerning the legal status of any such drug product.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact which precludes the refusal to approve the supplemental application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions and denying a hearing.

All submissions pursuant to this notice shall be filed in four copies. Such submissions, except for information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 9, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-26984 Filed 9-17-81; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

Medicare Program; Schedule of Limits on Hospital Per Diem Inpatient General Routine Operating Costs for Cost Reporting Periods Beginning On or After July 1, 1981

Corrections

In FR Doc. 81-19185 appearing on page 33637 in the issue of Tuesday, June 30, 1981, make the following changes:

1. On page 33642, third column and page 33643, first and second columns, in the table, the following SMSA areas should read as set forth below:

SMSA area	Wage index
* * * * *	
Fayetteville, NC	1.0353
Gadsen, AL	.9264
Harrisburg, PA	1.0534
Honolulu, HI	1.1654
Providence-Warwick-Pawtucket, RI	1.0314
Santa Cruz, CA	1.0811

SMSA area	Wage index
• • • • •	
Vineland-Millville-Bridgeton, NJ	1.0083
• • • • •	
Washington, DC-MD-VA	1.1457

[1] Approximate value for area.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Muckleshoot Indian Reservation, Washington; Proclaiming Certain Lands as Part of the Muckleshoot Indian Reservation.

September 3, 1981.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

On September 3, 1981, pursuant to authority contained in Section 7 of the Act of June 18, 1934 (34 Stat. 986; 25 U.S.C. 467), the following described lands, located in King County, Washington, were added to and made a part of the Muckleshoot Indian Reservation.

Tract T 1002—that part of Lot 19 lying south of County Road (J.P. Fay Road) and west of P.H. No. 11 (known as Auburn-Enumclaw Highway), in section 1, Township 20 North, Range 5 East, Willamette Meridian, King County, Washington, containing 12.26 acres more or less.

Tract T 1120—That portion of the southwest quarter of the southeast quarter of section 35, Township 21 North, Range 5 East, Willamette Meridian, in King County, Washington, lying southerly of the southerly margin of Auburn-Enumclaw County Road;
Except the west 561 feet thereof;
Except the north 249 feet of the west 175 feet of that portion of said southwest quarter of the southeast quarter which lies east of a line 561 feet east of the west line of said subdivision, as measured along said east line of said west 561 feet;
Except the east 200 feet thereof;
Except that portion thereof conveyed to the State of Washington for Primary State Highway No. 5, by deeds records under Auditor's File Nos. 3662340 and 3662341; and
Except and Reserving all minerals including oil, gas and coal set forth in the warranty Deed of March 1, 1977, on file in the Bureau of Indian Affairs, Portland Title Plant under document number 130-1498, containing 16.52 acres, more or less, after the above exceptions.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 81-27198 Filed 9-17-81; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AR 0368, etc.]

Arizona; Order Providing for Opening of Public Lands

Correction

In FR Doc. 81-24092 published on page 42196 in the issue for Wednesday, August 19, 1981, in the third column, under "Gila and Salt River Meridian, Arizona", in the second line "SE¼, NE¼" should be corrected to read "SE¼NE¼".

BILLING CODE 1505-01-M

[ES 21181]

Coal Lease Offering by Sealed Bid

Department of the Interior, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304. Notice is hereby given that at 2:00 p.m., September 25, 1981, certain coal resources in the lands described below in Whitley and McCreary Counties, Kentucky, will be offered for competitive lease by sealed bid of $25 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). However, no bids will be accepted for less than fair market value as determined by the authorized officer. This offering is being made as a result of an application filed by Ryans Creek Coal Company (ES 21181).

The sale will be held in the Conference Room of the Eastern States Office. No bids received after 2:00 p.m., September 25, 1981, will be considered.

Coal Offered: The coal resource to be offered under ES 21181 is limited to the underground Jellico and Barren Fork seams in the following described lands located between Whitley City and Williamsburg, Kentucky: On all or portions of Forest Service Tracts within the Daniel Boone National Forest numbered:

1888a, 1888b, 1888n, 1888o, 1888p, 1888t, 1888t-I, 1888x, 1888y; 1586a, 1586a-I, 1586a-II, 1586a-III, 1586a-IV, 1586a-V; 1941b, 1941c, 1941c-I, 1941c-II, 1941c-IV, 1941d.

Containing 1964.81 acres.

The metes and bounds land description is available for inspection at the above address.

The estimated total underground reserves are 4,616,498 tons. The coal quality is as follows: Btu—13,000; Sulfur—1.2 percent. The Jellico and Barren Fork coal beds average .35 feet thick over 1922.5 acres of the described lands.

Rental and Royalty: Leases issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States of 8% of the value of the coal mined. Value of the coal mined shall be determined in accordance with 30 CFR 211.

Notice of Availability: Bidding instructions are included in the Detailed Statement of the Lease Sale. A copy of the Statement and of the proposed coal lease for either lease offering are available at the Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commentor and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in the Public Room at the above address.

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 81-27203 Filed 9-17-81; 8:45 am]

BILLING CODE 4310-84-M

Colorado Off-Road Vehicle Designations Designation Order CO-030-8101

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Off-Road Vehicle Designation Decisions.

DECISION: Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and regulations contained in 43 CFR Part 8340. The lands described below are administered by the Montrose District Office of the Bureau of Land Management and are hereby designated as limited or closed to off-road vehicle use.

The 637,000-acre area affected by the designations is known as the Gunnison Basin and American Flats/Silverton Planning Area, which includes portions of public lands in Montrose, Gunnison, Saguache, Ouray, Hinsdale, and San Juan counties in Colorado. The designations are a result of land use planning decisons made in the 1980 Gunnison Basin and American Flats/Silverton Management Framework Plans. Comments received from public meetings held in 1978 and 1979, coordination with other federal, state and county agencies, and comments

received during a 30-day public comment period held in mid-summer 1981 are reflected in this designation decision.

These designations become effective with this publication in the Federal Register and will remain in effect until rescinded or modified by the Authorized Officer. Under the provisions in 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals by any persons adversely affected by the designations. An environmental assessment describing the impact of these designations is available for inspection at the offices listed at the end of this designation order.

The designations described below are detailed on maps available for public distribution. Special rules or restrictions also appear on these maps which are available at the locations listed at the end of this designation order. Implementation of the designations will be effected with an on-the-ground informational signing program.

A. Limited Designation

1. Limited to Designated Roads (Recognizing Casual Use)—286,000 acres.

The area affected by this designation is located in Gunnison County, and small portions of Montrose, Saguache and Hinsdale counties. Motorized vehicle use will be limited to designated roads in this area, while recognizing casual use on other existing roads and off roads that does not result in unnecessary and undue resource degradation. If, in the opinion of the Authorized Officer, unnecessary and undue resource degradation begins to occur as a result of casual use, the Montrose District will immediately, and without additional Federal Register notification, eliminate this casual use through a signing and monitoring program. Local news releases and notices will be used to notify the public.

2. Limited to Designated Roads—133,000 acres.

The area affected by this designation is located in Hinsdale, Ouray and San Juan counties. Motorized vehicle use will be limited to designated roads in this area. Only roads in BLM's transportation system (excepting specified trails), including federal, state and county roads, will be available for vehicular use. Snowmobile use is permitted on public lands in areas with this designation.

3. Limited to Season of use—167,000 acres.

McIntosh, Signal Peak, Tomichi, South Parlin Flats and Sapinero Mesa Wildlife Wintering Areas are located in the Gunnison Basin Planning Area. These Wildlife Wintering Areas are closed to all types of motorized vehicle use (including snowmobiles) from December 1 to March 31 of each year. In addition, motorized vehicle use will be limited to designated roads in these Wildlife Wintering Areas from April 1 to November 30 of each year. Casual use on other existing roads and off roads in these areas that does not result in unnecessary and undue resource degradation will be recognized from April 1 to November 30 of each year. If, in the opinion of the Authorized Officer, unnecessary and undue resource degradation begins to occur as a result of casual use, the Montrose District will immediately, and without additional Federal Register notification, eliminate this casual use through a signing and monitoring program. Local news releases and notices will be used to notify the public.

4. Limited to Type of Vehicle—Trail #T3318.

This trail (T3318) is located in the American Flats/Silverton Planning Area. This designation allows use by motorized vehicles which are less than 40 inches wide.

B. Closed Designation

Closed—50,000 acres. Year-round closure to all motorized vehicles (including snowmobiles) in the Powderhorn Primitive Area.

ADDRESS: For further information about these designations, contact either of the following Bureau of Land Management Offices:

District Manager, Montrose District Office, P.O. Box 1269, 2465 South Townsend, Montrose, Colorado 81402

Area Manager, Gunnison Basin Resource Area, P.O. Box 1269, 336 South 10th Street, Montrose, Colorado 81402.

Date: September 11, 1981.

Marlyn V. Jones,

District Manager.

[FR Doc. 81-27196 Filed 9-17-81; 8:45 am]

BILLING CODE 4310-84-M

[INT FEIS 81-39 and 81-40]

Paradise-Denio and Sonoma-Gerlach Resource Areas, Winnemucca District, Nevada; Proposed Livestock Grazing Management Program

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the final environmental impact statements (FEIS).

SUMMARY: Pursuant to Section 102(2) of the National Environmental Policy Act of 1969, the BLM Winnemucca District has prepared two FEISs on proposed livestock grazing management programs for the Paradise-Denio and the Sonoma-Gerlach Resource Areas.

The two EISs analyze the effects of allocating available vegetation to livestock, big game, and wild horses on approximately eight and one-half million acres of public lands. These final EISs are to be used with the Paradise-Denio and Sonoma-Gerlach draft EISs issued earlier this year. A limited number of these draft EISs as well as the finals, are still available from the Winnemucca District, 705 E. 4th Street, Winnemucca, NV 89445, (702-623-3676).

These final EISs include summaries of the impacts, errata sections and updated Public Participation chapters with public comments on the drafts and the BLM responses.

FOR FURTHER INFORMATION WRITE:

Robert Neary, Division Chief, Planning and Environmental Coordination, Winnemucca District Office, 705 E. 4th Street, Winnemucca, NV 89445, (702) 623-3676.

Copies of the DEIS are available for review at the following locations:

Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, NV 89520, (702) 784-5602

Bureau of Land Management, Elko District Office, 2002 Idaho Street, Elko, NV 89801, (702) 738-4071

Bureau of Land Management, Battle Mountain District Office, Box 194, Battle Mountain, NV 89820, (702) 635-5181

Bureau of Land Management, Carson City District Office, 1050 E. Williams Street, Carson City, NV 89701, (702) 882-1631

Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, NV 89301, (702) 289-4865

Bureau of Land Management, Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, NV 89102, (702) 385-6403

Bureau of Land Management, Burns District Office, 74 S. Alvord Street, Burns, OR 97720, (503) 573-2071

Bureau of Land Management, Vale District Office, Box 700, Vale, OR 97918, (503) 473-3144

Bureau of Land Management, Susanville District Office, Box 1090, Susanville, CA 96130, (916) 257-5381

Also, copies are available for review at the following public libraries:

Churchill Public Library, 553 S. Main St., Fallon, NV 89406

Douglas County Library, Box 337, Minden, NV 89423

Clark County Library, 1401 E. Flamingo Road, Las Vegas, NV 89109

Elko County Library, 720 Court Street, Elko, NV 89801

Esmeralda County Library, Goldfield, NV 89013

Humboldt County Library, 85 East Fifth Street, Winnemucca, NV 89445

Las Vegas Public Library, 1726 E. Charleston Blvd., Las Vegas, NV 89104
Lyon County, 29 Nevin Way, Yerington, NV 89447
Nevada State Library, Library Building, Carson City, NV 89710
Ormsby Public Library, 900 N. Roop, Carson City, NV 89701
Storey County Library, Storey County Courthouse, Virginia City, NV 89440
University of Nevada, Las Vegas, James R. Dickensen Library, 4505 Maryland Parkway, Las Vegas, NV 89154
Eureka County Library, Eureka, NV 89316
Lander County Library, Battle Mountain, NV 89820
Lincoln County Library, Box 248, Pioche, NV 89043
Mineral County Library, 1st and D Streets, Hawthorne, NV 89415
Nye County Library, Tonopah, NV 89049
Pershing County Library, 1125 Central Avenue, Lovelock, NV 89419
University of Nevada, Reno, Getchell Library, Reno, NV 89507
Washoe County Library, 301 S. Center Street, Reno, NV 89505
White Pine County Library, City Hall, Ely, NV 89301

Dated: September 9, 1981.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 81-27204 Filed 9-17-81; 8:45 am]

BILLING CODE 4310-84-M

Public Meeting on a Wild Horse Gathering in the Washakie Resource Area of the Worland District, Bureau of Land Management, Wyoming

September 10, 1981.

Notice is hereby given pursuant to Pub. L. 94-579 (The Federal Land Policy and Managment Act of 1976), Section 404, of the intent of the Worland District of the Bureau of Land Management to gather a herd of approximately 30 wild and free-roaming horses. The gathering will take place on November 15, weather permitting, or as soon thereafter as possible. The horses are in the Leikham and Spring Creek grazing allotments of the Washakie Resource Area. Helicopters may be used during the gathering if other capture methods are not feasible.

A public meeting will be held in Ten Sleep at 7:00 p.m. on Thursday, October 29, in the Ten Sleep High School Cafeteria. All interested public are urged to attend. Anyone who cannot attend may submit a written statement commenting on the wild horse gathering to the District Manager on or before Wednesday, October 28. Statements received will be read at the meeting. Written statements, questions, or other comments should be addressed to District Manager, Worland District Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401, or call Roger Inman, Washakie Resource Area Manager, (307) 347-6151.

John A. Kwiatkowski,

District Manager.

[FR Doc. 81-27160 Filed 9-17-81; 8:45 am]

BILLING CODE 4310-84-M

[W-25810]

Termination of Classification of Public Lands for Multiple-Use Management and Mineral Segregation

September 11, 1981.

1. On December 18, 1970, (FR Vol. 35 No. 245, pages 19197 and 19198), the public and Reclamation lands described in the notice aggregating approximately 132,000 acres, were classified for multiple-use management under the Act of September 19, 1964, and segregated as follows: (a) all of the described lands except those that were listed in paragraph 4 of the notice were segregated from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. 334), and from sales under section 2455 of the Revised Statutes, 28 Stat. 687, (formerly 43 U.S.C. 1171); (b) the lands that were described in paragraph 4 of the notice were not segregated from the desert land entry laws, but were segregated from all other agricultural land laws (43 U.S.C. Part 7; U.S.C. Sec. 334) and from sales under section 2455 of the Revised Statutes, 28 Stat. 687, (formerly 43 U.S.C. 1171); and (c) the lands that were described in paragraph 5 of the notice were further segregated from appropriation under the general mining laws (30 U.S.C. 21).

2. Pursuant to the regulations set forth in 43 CFR 2461.5(c)(2), the classification referred to under paragraph 1 above, is hereby terminated. This action will restore all of the lands to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

The Reclamation lands described in the notice were previously revoked and opened to entry subject to the multiple-use classification.

3. The approximate 13,393 acres of land that were described in paragraph 5 of the notice, which were further segregated from appropriation under the general mining laws (30 U.S.C. 21), will be open to location under the United States mining laws at 7:45 a.m. on October 27, 1981.

4. All of the lands have been and will continue to be open to the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operation, P.O. Box 1828, Cheyenne, Wyoming 82001.

Maxwell T. Lieurance,

State Director.

[FR Doc. 81-27197 Filed 9-17-81; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Notice of Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Office of Natural Resources Tennessee Valley Authority Morris, TN—PRT 2-8425.

The applicant requests a permit to take and relocate fine-rayed pigtoe mussels (*Fusconaia cuneolus*) and shiny pigtoe mussels (*F. edgariana*) (or other presently unknown endangered mussels) from a section of the Clinch River near St. Paul, Virginia to the Grays Island area, Clinch River. The mussels will be relocated to prevent their destruction due to a redevelopment project at the Clinch River near St. Paul, VA.

Applicant: The University of Connecticut Storrs, CT—PRT 2-8411.

The applicant requests a permit to export and reimport museum specimens of endangered species to and from foreign institutions for scientific research.

Applicant: Los Angeles Zoo, Los Angeles, CA—PRT 2-8417.

The applicant requests a permit to import two male captive-bred Goeldi's monkeys (*Callimico goeldi*) from the Jersey Wildlife Preservation Trust, Jersey, Channel Island, Great Britian for enhancement of propagation.

Applicant: New York Zoological Society, Bronx, NY—PRT 2-8451.

The applicant requests a permit to import two hooded cranes (*Grus monacha*) from the Hong Kong Zoo and Botanical Gardens, Hong Kong, for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before October 19, 1981 by submitting written data, views, or arguments to the above

address. Please refer to the file number when submitting comments.

Dated: September 14, 1981.

Robert J. Batky,

Acting Chief, Branch of Permits Federal Wildlife Permit Office.

[FR Doc. 81-27155 Filed 9-17-81; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: National Marine Fisheries Service, Southeast Regional Office, St. Petersburg, Florida.

The applicant requests a permit to take hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), Atlantic ridley (*Lepidochelys kempi*), green (*Chelonia mydas*) and loggerhead (*Caretta caretta*) sea turtles incidentally to demonstrations and experimentation with sea turtle excluder devices for fishing gear.

Humane care and treatment of any turtles recovered has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-8444. Interested persons may comment on this application on or before October 19, 1981, by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: September 14, 1981.

Robert J. Batky,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 81-27156 Filed 9-17-81; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Southern Appalachian Coal Region, Alabama, Maximum Economic Recovery and Fair Market Value; Request for Public Comment

Agency: Geological Survey, Interior.

The Geological Survey has identified 20 tracts as candidates for possible lease sale in the Southern Appalachian Coal Region in Alabama. The 20 tracts are currently under consideration for leasing by the Southern Appalachian Regional Coal Team. A description of these tracts is contained in Table I. More complete geologic data on these tracts are available in the engineering section of the delineation reports prepared for each tract. These reports are available for public inspection at the Office of the Eastern Region Conservation Manager, Conservation Division, Geological Survey, 1725 K St., NW., Suite 204, Washington, D.C. 20006, and at the Bureau of Land Management, Tuscaloosa Office, 1315 McFarland Blvd., Tuscaloosa, Alabama 35405. Additional data on these tracts are available from the Final Environmental Impact Statement (FEIS). Copies of the FEIS are available from Bob Todd, EIS Team Leader, Bureau of Land Management, Tuscaloosa Office.

The public is invited to submit written comments on the fair market value of the listed tracts to the Geological Survey. Comments should address, but not be limited to, the following:

1. The quantity and quality of the coal resources for each tract by seam(s).
2. The mining method or methods which would achieve maximum economic recovery of the coal, including specification of seams to be mined on each tract and the most desirable timing and rate of production.
3. The demonstrated and inferred reserves of coal on each tract by seam(s).
4. Which of the tracts, if any, should be evaluated as part of a larger mining unit (i.e., those tracts which do not in themselves form a logical mining unit).
5. The configuration of the larger mining unit of which the tract may be a part.
6. Restrictions to mining which may affect coal recovery.
7. The price that the mined coal would bring in the marketplace.
8. The cost of producing the coal, including a discussion of mining and reclamation costs.
9. The percentage rate at which anticipated income streams should be discounted, either in the absence of inflation or including inflation, in which case the anticipated rate of inflation should be given.
10. Depreciation and other accounting considerations.
11. The value of the surface estate if privately held.
12. Documented information on the terms and conditions of recent and similar coal land transactions in the lease sale area.

If information submitted is considered to be proprietary, the information should be so labeled in the first page of the written comment(s). The U.S. Geological Survey will treat this information as confidential if authorized by the exemption provisions of the Freedom of Information Act. Comments should be sent to the Eastern Region Conservation Manager, Conservation Division, U.S. Geological Survey, 1725 K St., NW., Suite 204, Washington, D.C. 20006. Comments should be received no later than 30 days after publication of this notice.

This request for comments should not be interpreted as a firm commitment by the Federal Government to lease any of the tracts listed in Table I. A decision to lease any or all tracts will be made not less than 30 days before the lease sale.

Departmental policy calls for release of all non-proprietary data which are used as input in the discounted cash flow evaluation model. Under this policy, we are releasing for public comment and review our initial estimates of: (1) "The coal selling price" which is an estimate of the range of current market prices and is based on the quality of the coal; (2) "the unit mining cost" which is an estimate of the range of all the operating costs used to produce the coal; and (3) " the nominal discount rate" which is the discount rate obtained from using a 10 percent real discount rate and a 9 percent inflation factor (see Table II).

These values may change as a result of comments received from the public and changes in the market conditions between now and when the final economic evaluations are completed.

Dated: September 11, 1981.

Table I—Description of possible lease tracts in the Southern Appalachian Coal Region in Alabama

Tract name	County, township and range, (Huntsville P.M.)	Acreage total/FMO[1]	In-place coal reserve estimate (thousand tons) total/FMO[1]	Probable type of mine	BTU per pound	Sulfur content (percent)	Ash content (percent)
Harris Cemetery (SBA)	Fayette; T14S, R10W	160/40	85/39	Surface	14,250	1.4	0.4
Brannon	Walker; T14S, R9&10W	394/273	1,116/672	do	13,270	2.0	14.7
Little Tyro Creek	Fayette; T15&16S, R9&10W	1,720/880	2,019/1,009	do	13,120	2.7	0.2

Table I—Description of possible lease tracts in the Southern Appalachian Coal Region in Alabama—Continued

Tract name	County; township and range, (Huntsville P.M.)	Acreage total/FMO[1]	In-place coal reserve estimate (thousand tons) total/FMO[1]	Probable type of mine	BTU per pound	Sulfur content (percent)	Ash content (percent)
Crabbe Road	Tuscaloosa; T17&18S, R9W	3,219/800	12,176/3,073	do	13,608	3.7	6.6
Willis Chapel (SBA)	Fayette; T15S, R9W	480/120	219/86	do	13,000	.9	10.0
North Rock Springs Church	Tuscaloosa; T17S, R9W	1,200/400	1,944/926	do	12,954	3.9	10.7
Dry Creek North	Tuscaloosa; T18S, R9&10W	2,025/460	14,209/3,800	do	13,200	3.5	11.0
Dry Creek South	Tuscaloosa; T18S, R9&10W	1,120/400	9,830/3,156	do	13,300	2.0	9.0
Boxes Creek West	Walker; T14S, R10W	286/35	962/118	do	13,270	2.0	14.7
Yellow Creek East	Tuscaloosa; T19S, R9W	2,660/460	12,474/2,759	do	13,270	1.0	9.7
Flatwood	Fayette; T16S, R9W	1,800/320	2,634/843	do	12,835	2.9	9.2
Poplar Hollow	Fayette; T16&17, R9W	3,680/1,160	8,151/2,229	do	12,512	3.2	9.1
Pendley No. 1	Fayette; T15S, R9&10W	1,520/840	887/797	do	13,440	1.2	6.0
Bagwell Road	Tuscaloosa; T17S, R9W	2,520/480	3,569/800	do	14,080	2.4	5.2
Piney Woods Church	Tuscaloosa; T18S, R9&10W	860/240	1,873/658	do	13,400	3.7	11.0
Dividing Ridge	Fayette; T16S, R9W	1,160/680	1,795/1,294	do	13,288	2.7	7.9
Jess Creek	Walker; T14S, R9W	6,760/1,960	23,548/9,452	Underground	12,995	1.0	11.4
Windham Springs	Tuscaloosa; T18S, R9&10W	14,120/7,920	68,788/44,501	do	12,700	2.7	13.4
Wiley	Tuscaloosa; T17&18S, R9&10W	7,920/2,040	54,117/14,323	do	12,460	2.5	13.2
Howard	Fayette; T14S, R10W	1,337/796	3,265/2,241	Surface	13,270	2.0	14.7

[1] Federal Mineral Ownership.

Table II—Preliminary estimates of economic data to be used in discounted cash flow evaluation

	Underground	Surface
Mining Costs ($/ton)	20–25	19–25
Coal Selling Price ($/ton)	25–36	25–40
Discount rate (%)	19.9	19.9

George F. Brown,

Regional Conservation Manager, Eastern Region.

[FR Doc. 81-27135 Filed 9-17-81; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Santa Monica Mountains National Recreation Area Advisory Commission will be held on Tuesday, October 20, 1981 at 1:00 p.m. in the City Council Chambers, 1658 Main Street, Santa Monica, California.

The Advisory Commission was established by Pub. L. 95-625 to provide for free exchange of ideas between the National Park Service and the public to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Honorable Marvin Braude
Ms. Sarah Dixon
Ms. Margot Feuer
Dr. Henry David Gray
Mr. Edward Heidig
Mr. Frank Hendler
Ms. Mary C. Hernandez
Mr. Bob Hollman
Ms. Susan Barr Nelson
Mr. Carey Peck
Mr. Donald Wallace
Ms. Marilyn Whaley Winters

The major agenda items include the following:

Status reports on land acquisition, law enforcement and ranger activities, coastal docent program, and trails
Interim Use and Management Committee Report
Analysis of General Management Plan Recommendations

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364.

Minutes of the meeting will be available for public inspection by December 31, 1981, at the above address.

Dated: September 10, 1981.

Robert S. Chandler,

Superintendent, Santa Monica Mountains National Recreation Area.

[FR Doc. 81-27228 Filed 9-17-81; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Regulatory Reform: Fish and Wildlife Coordination Act; Endangered Species Act

AGENCY: Department of the Interior.

ACTION: Review under Executive Order 12291 of the programs of the Fish and Wildlife Service (FWS), Department of the Interior, and the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, which are authorized by the Fish and wildlife Coordination Act and the Endangered Species Act.

SUMMARY: On August 12, 1981, Vice President Bush announced that the Departments of the Interior and Commerce would conduct a review of procedures implementing the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531, *et. seq.* (ESA), and Fish and Wildlife Coordination Act, 16 U.S.C. 661, *et. seq.* (FWCA), to determine whether they meet the objectives of Executive Order 12291. Lead responsibility for conduting these reviews has been given to the Assistant Secretary for Fish and Wildlife and Parks, in the Department of the Interior, who has established two interagency (FWS/NOAA) Task Forces to conduct them.

These regulatory reviews will evaluate suggested changes in the statutes, existing or proposed rules, management practices, or inter- and intra-agency agreements, and will determine what actions are necessary to attain the objectives of Executive Order 12291. Executive Order 12291 requires that, in developing or revising any rule, Federal agencies must, to the extent permitted by law—

a. Base administrative decisions on adequate information concerning the need for and the consequences of the proposed action;

b. Undertake regulatory action only when the potential benefits to society from the regulations outweigh the potential costs to society;

c. Choose regulatory objectives to maximize the net benefits to society;

d. Among alternative approaches to any given regulatory objective, choose the alternative involving the least net cost to society; and

e. Set regulatory priorities with the aim of maximizing the aggregate net benefits to society, taking into account the condition of the particular industries affected by regulations, the condition of the national economy, and other regulatory actions contemplated in the future.

DATES: Comments on these regulatory reviews may be submitted prior to October 16, 1981. Comments received after that date will be considered if it is practicable to do so.

Public Participation Procedures

The Department of the Interior is interested in soliciting public comment on the need for the reform of the procedures and policies currently associated with these two wildlife conservation statutes. Comments submitted in response to this Notice should specify how their recommended reforms relate to the purposes of the Executive Order and should distinguish among recommendations which would require (1) changes in law, (2) changes in rules, or (3) changes only in management practice or personnel commitments. The public need not submit comments on this initiative which substantially restate those made either to (1) Secretary Watt, in response to his letters to the Governors, and others, on January 28, 1981, (2) the President or Vice President, in response to the Presidential Task Force on Regulatory Relief, or (3) upon the Draft Environmntal Impact Statement and proposed FWCA rules, published on December 18, 1980 (45 FR 83412). Those comments will be incorporated in the review as if refiled.

If, as a result of this review, it is determined that rules or proposed rules should be changed, applicable rulemaking requirements will be observed which will permit the public to participate in those proceedings.

ADDRESSES: Interested persons or entities may submit comments, in writing, to Director, Fish and Wildlife Service, Department of the Interior, 18th and C Streets N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Endangered Species Act Review

Ronald E. Lambertson, Associate Director, Department of the Interior, 18th & C Streets, N.W., Washington, D.C. 20240, (Telephone 202-343-4646)

Fish and Wildlife Coordination Act Review

Michael J. Spear, Associate Director, FWS, Department of the Interior, 18th & C Streets, N.W., Washington, D.C. 20240, (Telephone 202-343-4767)

Dated: September 11, 1981.

G. Ray Arnett,

Assistant Secretary of the Interior.

[FR Doc. 81-27153 Filed 9-17-81; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent Corporation and principal address: Colt Corp., 49 Central Avenue South, Kearny, NJ 07032.

2. Wholly owned subsidiaries which will participate in the operations and States of incorporation:

(i) Columbia Terminals, Inc., New Jersey

(ii) Amchems Inc., T/A American Chemicals, Florida

1. Parent corporation and address of principal offices: E. I. du Pont de Nemours and Company, 1007 Market Street, Wilmington, Delaware 19898.

2. Wholly owned subsidiary which will participate in the operations, and states of incorporation:

(i) Remington Arms Company, Inc. (Delaware)

(ii) Remington Arms of Canada Limited (Canada)

(iii) Endo Laboratories, Inc. (Delaware)

(iv) Endo Pan American Corporation (New York)

(v) Endo Canada, Inc. (Canada)

(vi) Endo Inc. (Delaware)

(vii) Endo Pharmaceuticals, Inc. (Delaware)

(viii) New England Nuclear Corporation (Indiana)

1. Parent corporation and principal address: Seppala & Aho Construction Co., Inc., New Ipswich, NH 03071

2. Wholly owned subsidiaries (all New Hampshire corporations):

(i) Monadnock Fabricators, Inc.

(ii) Builders Exchange, Inc.

(iii) Trase Construction Co., Inc.

1. Parent corporation and address of principal office: Trinity Bag & Paper Co., Inc., 529 5th Avenue, New York, NY 10017.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal office:

(i) Terminal Paper Bag Co., Inc., P.O. Box 47, Yulee, FL 32097

(ii) Trinity Midwest Corporation, P.O. Box 301, Plainfield, IL 60544

(iii) Trinity Plastics Corporation, Route 655, New Junction Route 28, and U.S. Highway 29, Remington, VA 22734

1. Parent corporation and address of principal office: Trinity Industries, Inc., 4001 Irving Blvd., Dallas, Texas 75247; P.O. Box 10587, Dallas, Texas 75207.

2. Wholly owned subsidiaries which will participate in the operations and address of their respective principal offices:

(i) Delta Tank Corporation, Sherrill Street, P.O. Box 3750, Jackson, Georgia 30233.

(ii) Equitable Shipyards, Inc., 3636 I 10 Service Road, Metairie, Louisiana 70004.

(iii) Gambles', Inc., 1401 North Decatur, P.O. Box 310, Montgomery, Alabama 36101.

(iv) Hackney, Inc., 4001 Irving Blvd., P.O. Box 10587, Dallas, Texas 75207.

(v) Mosher Steel Company, 3910 Washington Avenue, Houston, Texas 77001.

(vi) Texas Metal Fabricating Company, 7000 Old Katy Road, P.O. Box 70125, Houston, Texas 77007.

(vii) Trinity Industries Transportation, Inc., 4001 Irving Blvd., P.O. Box 10587, Dallas, Texas 75207.

(viii) Ingalls, Inc., 620 4th Avenue South, P.O. Box 2527, Birmingham, Alabama 35202.

(ix) Ingalls Marine, Inc., 701 Market Street, N.W., Decatur, Alabama 35601.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-27184 Filed 9-17-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 164]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: September 13, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 26396 (Sub-403)X, filed September 4, 1981. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Applicant seeks to remove restrictions in its Sub-No. 368 certificate limiting service in its regular route general commodity authority to foreign commerce only.

MC 63417 (Sub-310)X, filed August 24, 1981. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). Applicant seeks to remove restrictions in its Sub-Nos. 98, 113, 146, 154, 156, 166, 171, 179, 183, 184, 186, 196, 198, 205, 211, 212, 213, 214, 226, 227, 230, 236, 237, 244, 247, 249, 251, 252, 253, 256, 261, 265, 267, 271, 272, 275, 276, 277, 278, 279, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 295, 296, 297, 298, and 299 certificates to (1) broaden the commodity descriptions (a) by removing all restrictions from general commodities authority in Sub-Nos. 205, 214, 272, 276, 279, 285, 297, and 298, except classes A and B explosives; (b) from molded peat products and expanded foam plastic products in Sub-No. 166, molded pulp products, molded peat products, paper products and expanded foam plastic products in Sub-No. 253, to "pulp, paper and related products and rubber and plastic products"; (c) from metal containers in Sub-No. 146, and iron and steel containers in Sub-No. 154, to "metal products"; (d) from mineral fiber, mineral fiber products, insulating material and air filters in Sub-No. 156, glass containers in Sub-No. 198, insulating materials in Sub-No. 284, glass containers in Sub-No. 287, to "clay, concrete, glass, or stone products"; (e) from plumbing supplies, vanities, and vanity cabinets, and iron and steel articles in Sub-No. 171, to "plumbers goods, metal products, furniture and fixtures"; (f) from (1) small arms ammunitions and primers to "ordnance and accessories (except classes A and B explosives)"; (2) hand tools, assayers scales, melting kettles, and sporting goods to "metal products, miscellaneous products of manufacturing, and machinery; and (3) automotive parts and accessories, paint, nuts, bolts, display racks, catalogs and advertising materials to "transportation equipment, chemicals and related products, metal products, and rubber and plastic products" and materials, equipment and supplies used in the manufacture and distribution of the commodities in (1), (2) and (3), in Sub-No. 179; (g) from grain handling equipment in Sub-No. 183 to "machinery"; (h) from plumbing goods, vanities, and cabinets in Sub-No. 184 to "plumbers goods and furniture and fixtures"; (i) from polyethylene foam products in Sub-No. 113, expanded polyethylene products in Sub-No. 186, plastic bags, can liners, containers, articles, film, sheeting, dropcloths, tarpauling, and scrap in Sub-No. 226, polyethylene foam products in Sub-No. 286, to "rubber and plastic products"; (j) from new furniture in Sub-No. 256, new furniture and store fixtures in Sub-No. 290, new furniture and furniture parts in Sub-No. 295, to "furniture and fixtures"; (k) from animal feed and feed ingredients in Sub-No. 196, animal feed, feed additives and supplements in Sub-No. 213, animal feed in Sub-No. 230, to "food and related products"; (l) from fireplaces, air heaters, ventilators, barbecue grills, in (part 1) of Sub-Nos. 211 and 289, to "metal products and machinery"; (m) from malt beverages in Sub-Nos. 229 and 231, to "food and related products"; (n) from electric lamps and accessories in Sub-No. 237, to machinery"; (o) from chemicals, plastic articles, plastic materials, and liquid plastics in Sub-No. 244, to "chemicals and related products, rubber and plastic products"; (p) from containers, container closures, container components, glassware and packaging products and scrap materials in Sub-No. 247 to "such commodities as are used by or dealt in by manufacturers of containers, container closures, glassware, packaging products, and scrap materials related to such products"; (q) from water heaters, heating boilers, hot water tanks and solar heating panels in Sub-No. 251 to "metal products, and machinery"; (r) from containers and container ends and materials, supplies, and equipment used in the manufacture thereof in Sub-No. 252, to "such commodities as are dealt in or used by manufacturers of containers and container ends"; (s) from boots and shoes in Sub-No. 261, to "leather and leather products and rubber and plastic products"; (t) from plastic and paper products in Sub-No. 212, containers, parts, and accessories in Sub-No. 265, to "pulp, paper and related products, rubber or plastic products, and such commodities as are dealt in or used by manufacturers of containers"; (u) from metal ductwork, fittings, and duct heaters in Sub-No. 271 to "metal products, and machinery"; (v) from heating and air conditioning apparatus and parts in Sub-No. 277 to "machinery"; (w) from electrical sound amplifying equipment, component parts, and accessories in Sub-No. 278, to machinery, furniture and fixtures"; (x) from electrical appliances in Sub-No. 281, to "machinery"; (y) from machinery, machinery parts, rubber products, environmental control equipment, and air conditioning units in Sub-No. 282, to "rubber or plastic products, metal products, and machinery"; (z) from paints, water proofing compounds, and protective coatings in Sub-No. 288 to "chemicals and related product and protective coatings"; (aa) from household appliances in Sub-No. 296, to "machinery"; (bb) from containers and container parts in Sub-No. 299 to "such commodities as are dealt in or used by manufacturers of containers"; (cc) from paper and paper products in Sub-No. 98 to "pulp, paper, and related products"; (dd) from plastic articles in Sub-No. 249 to "rubber and plastic products"; (2) remove the facilities limitations and or replace (a) in Sub-Nos. 98 and 249 Muskogee, OK, with Muskogee County, OK; (b) in Sub-No. 146 Salisbury, NC, with Rowan County, NC; (c) in Sub-No. 154 Canton, MS, with Madison County, MS; (3) in Sub-No. 156 Wabash, IN, with Wabash County, IN; (e) in Sub-No. 166 Florin, CA, with Sacramento County, CA; (f) in Sub-No. 171 Evansville and Rockport, IN, with Vanderburgh and Spencer Counties, IN; (g) in Sub-No. 179 Lewiston, IL; Oroville, CA; Benecia, City of Industry, and Santa Ana, CA, with Nez Perce County, ID; Butte, Los Angeles, Orange, and Solano Counties, CA; (h) in Sub-No. 183 Salina, KS, with Saline County, KS; (i) in Sub-No. 184 Corsicana and Hondo, TX; Crawfordsville and Rensselaer, IN; Leominster, MA; Milwaukee, WI;

Monroe, GA; New Castle, PA; Ottumwa, IA; Phoenix, AZ; Redlands, CA; Salem, OH; and Union Point, GA, with Medina and Navarro Counties, TX; Montgomery and Jasper Counties, IN; Worcester County, MA; Milwaukee County, WI; Walton and Greene Counties, GA; Lawrence County, PA; Wapello County, IA; Maricopa County, AZ; San Berdino County, CA; Columbiana County, OH; (j) in Sub-No. 196 Hutchinson, KS, with Reno County, KS; (k) in Sub-No. 186 Biola, CA, with Fresno County, CA; (l) in Sub-No. 198 Cliffwood, NJ, with Monmouth County, NJ; Henryetta, OK, with Okmulgee County, OK, Shakopee, MN, with Scott County, MN; Terre Haute, IN, with Vigo County, IN; Warner Robins, GA, with Houston County, GA; (m) in Sub-No. 205 Corinth, MS, with Alcorn County, MS; (n) in Sub-No. 211 facilities near Baltimore, MD, with Baltimore, MD, Fullerton, CA, with Orange County, CA; Union City, TN, with Obion County, TN; (o) in Sub-No. 213 Mattoon, IL, with Coles County, IL; (p) in Sub-No. 226 facilities near Lawrenceburg, TN, with Lawrence County, TN; Macomb, IL, with McDonough County, IL; Montgomery, AL, with Montgomery County, AL; (q) in Sub-No. 230 Birmingham, AL, with Jefferson, Shelby, and St. Clair Counties, AL, Cerritos and Los Angeles, CA, with Los Angeles and Orange Counties, CA; Columbus, OH with Franklin and Fairfield Counties, OH; Ogden, UT, with Weber County, UT; Hutchinson, KS, with Reno County KS; (r) in Sub-No. 237 Charleroi, PA, with Washington County, PA; Monroe, LA, with Ouachita Parish, LA; Salina, KS, with Saline County, KS; (s) in Sub-No. 251 McBee, SC, with Chesterfield County, SC; (t) in Sub-No. 253 Albertville, AL, with Marshall County, AL, New Iberia, LA, with Iberia Parish, LA; Memphis, TN, with Shelby County, TN; (u) in Sub-No. 256 Trumann, AR, with Poinsett County, AR; (v) in Sub-No. 261 Gallatin, TN, with Sumner County, TN; Nashville, TN, with Davidson County, TN; (w) in Sub-No. 271 Kaysville, UT, with Davis County, UT; (x) in Sub-No. 272 facilities in Richmond County, GA, with Richmond County, GA; (y) in Sub-No. 277 Cedar City, UT, with Iron County, UT; E. Bloomfield, NY, with Ontario County, NY: New Braunfels, TX, with Comal and Guadalupe Counties, TX; Oceanside, CA, with San Diego County, CA; Redmond, WA, with King County, WA; Santa Fe Springs, CA, with Los Angeles and Orange Counties, CA; Somerset, PA, with Somerset County, PA; Wichita, KS, with Segwick County, KS; (z) in Sub-No. 278 Anaheim, CA, with Los Angeles and Orange Counties, CA; Oklahoma City, OK, with Oklahoma, Cleveland and Canadian, Counties, OK, (aa) in Sub-No. 279 Los Angeles, CA, with Los Angeles and Orange Counties, CA; (bb) in Sub-No. 281 Cape Girardeau, MO, with Cape Girardeau County, MO; Long Beach, CA, with Los Angeles and Orange Counties, CA; (cc) in Sub-No. 282 Oklahoma City, OK, with Cleveland, Canadian, and Oklahoma Counties, OK; (dd) in Sub-No. 284 Fruita, CO, with Mesa County, CO; Grambling, LA, with Lincoln Parish, LA; (ee) in Sub-No. 285 facilities near Roanoke, VA, with Roanoke, VA; (ff) in Sub-Nos. 286 and 113 Coldwater, MI, with Branch County, MI; (gg) in Sub-No. 288 Hollister, CA, with San Benito County, CA; (hh) in Sub-No. 289 Santa Fe Springs, CA, with Los Angeles County, CA; (ii) in Sub-No. 290 Terrell, TX, with Kaufman County, TX; (jj) in Sub-No296 Greenville and Grand Rapids, MI, with Kent and Montcalm Counties, MI; (kk) in Sub-No. 299 Los Angeles, CA, with Los Angeles and Orange Counties, CA; Kent, WA, with King County, WA; Phoenix, AZ, with Maricopa County, AZ; (3) remove restrictions (a) against the transportation of materials, equipment, and supplies used in the manufacture, sale, and distribution of malt beverages to Milwaukee; (b) service from Milwaukee, WI to MI and NE and (3) service from Fort Worth, TX, to AL, AR and MS in Sub-No. 229; (4) remove restrictions against commodities in bulk, and commodities requiring special equipment wherever they appear in the named certificates; (5) remove a restriction against service at Hodge, LA, in Sub-No. 212; (6) remove a restriction against the transportation of agricultural implements other than hand in Sub-No. 227; (7) replace one-way with radial authority; (8) remove the exceptions of AK and HI wherever they appear; (9) remove the exceptions of CA and HI in Sub-No. 166; (10) remove originating at or destined to restrictions in Sub-Nos. 98, 184, 205, 226, 230, 272, 278 and 282.

MC 99408 (Sub-11)X, filed September 4, 1981. Applicant: CITY DELIVERY SERVICE, INC., 1 Passan Dr., Laflin Borough, PA 18702. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Applicant seeks in its Sub-No. 7F certificate to (1) change Scranton and Wilkes Barre, PA to Lackawanna and Luzerne Counties, PA, and (2) eliminate the facility restriction.

MC 124718 (Sub-1)X, filed August 24, 1981. Applicant: REISING BROTHERS, INC., P.O. Box 5, 54 Hungry Harbor Road, Valley Stream, NY 11582. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048–0640. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description from agricultural lime, limestone, and limestone poultry and animal feed to "ores and minerals, clay, concrete, glass or stone products, and food and related products"; and from empty containers to "lumber and wood products, pulp, paper and related products, plastic products and metal products"; (2) eliminate restriction to shipments in containers; and (3) change one-way authority to radial authority.

MC 129952 (Sub-2)X, filed August 25, 1981. Applicant: JO-DI TRUCKING, INC., P.O. Box 21, Harrells, NC 28444. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Applicant seeks to remove restrictions in its Sub-No. 1 Certificate to (1) broaden lumber to "lumber and wood products"; feed, flour, canned goods, ice cream salt, apple products and vinegar to "food and related products"; store fixtures to "furniture and fixtures"; hardware to "such commodities as are dealt in by hardware or home improvement stores"; and general commodities with various exceptions to "general commodities, except classes A and B explosives," (2) substitute Sampson County, NC, for Clinton and Roseboro, NC; New Hanover County, NC for Wilmington, NC; Alamance, Beaufort, Bladen, Brunswick, Carteret, Chatham, Columbus, Cumberland, Craven, Duplin, Durham, Edgecombe, Franklin, Granville, Greene, Hartnett, Hoke, Johnston, Jones, Lee, Lenoir, Martin, Moore, Montgomery, Nash, New Hanover, Onslow, Pamlico, Pender, Pitt, Randolph, Richmond, Robeson, Sampson, Scotland, Wake, Wayne, and Wilson Counties, NC for points in NC within 75 miles of Clinton, NC; Sussex County, VA for Jarratt, VA; Berkeley County, WV for Inwood, WV; Baltimore County for Sparrows Point, MD, and (3) provide radial operations where only one-way authority exists.

MC 139083 (Sub-14)X, filed August 24, 1981. Applicant: BUILDING SYSTEMS, TRANSPORTATION, INC., P.O. Box 142, Washington Courthouse, OH 43160. Representative: Marshall Kragen, 1919 Pennsylvania Avenue NW., Suite 300, Washington, DC 20006. Applicant seeks to remove restrictions in its Sub-No. 10 certificate to broaden its authority from (1) buildings, (2) iron and steel articles, (3) plastic and fiberglas pipe, and (4) materials, equipment, and supplies used in the manufacture, distribution, and sale of the commodities in (1) through (3) above, to "(1) rubber and plastic products; pulp, paper, and related products; metal products; and clay,

concrete, glass, or stone products; and (2) materials, equipment, and supplies used in the manufacture, distribution, and sale of the commodities in (1) above", between points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI,MN, MS, MO, NJ, NY, NC, OH, PA, SC, TN, TX, VT, VA, WV, WI, and DC.

MC 144513 (Sub-22)X, filed August 31, 1981. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Applicant seeks to remove restrictions in its No. MC 144513 Sub-Nos. 6 and 16 certificates and No. MC 138054 Sub-Nos. 1, 10, 14, 17, 22F, 25F, 34F and 36F permits to (1) broaden the commodity descriptions as follows: to "machinery" from shop and construction equipment and ventilators in Sub-No. 5 certificate and Sub-No. 1 permit; to "lumber and wood products" from shop and construction supplies in Sub-No. 5 certificate; to "building materials" from coatings, room dividers, partitions, ceiling grids, shutters and louvers in Sub-No. 5 certificate and Sub-Nos. 1 and 25F permits; to "rubber and plastic products" from rubber products, rubber materials, plastic articles, plastic products and plastic resins, etc. in Sub-Nos. 5 and 16 certificates and Sub-Nos. 1 and 14 permits; to "chemicals and related products" from chemicals, carbon black, saline solutions, adhesives, blood derivatives, etc, in Sub-Nos. 5 and 16 certificates and Sub-Nos. 14 and 34F permits; to "pulp, paper and related products and printed matter" from paper and paper products in Sub-No. 5 certificate; to "metal products" from ornamental iron and sheet metal products in Sub-Nos. 1, 17 and 25F permits; to "furniture and fixtures" from infant and juvenile furniture, tool stands, service carts, benches, seats, cabinets, shelving, lockers, etc. in Sub-Nos. 10, 17 and 25F permits; to "clay, concrete, glass or stone products" from glass bottles and infant feeding equipment in Sub-Nos. 14 and 22F permits; to "transportation equipment" from car seats and carriers in Sub-No. 10 permit; (2) remove "commodities in bulk, in tank vehicles" and "size and weight" restrictions in Sub-Nos. 5 and 16 certificates and Sub-Nos. 1, 14, 17, 25F, and 34F, permits; (3) remove "originating at and destined to" restriction in Sub-No. 5 certificate; (4) remove all exceptions except classes A and B explosives from its general commodities authority in Sub-No. 36F permit; (5) remove the "AK, HI and OH" exceptions wherever they appear in both the certificates and permits referred to above; (6) broaden the territorial description to between points in the U.S. under continuing contract(s) with a named shipper in all permits.

MC 148158 (Sub-14)X, filed July 28, 1981 previously noticed in the Federal Register of August 25, 1981, republished as follows: Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, City of Industry, CA 91749. Representative: Robert L. Cope, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Applicant seeks to remove restrictions in its Sub-No. 1F certificate to (1) broaden the commodity description from general commodities with the usual exceptions to general commodities (except classes A and B explosives); (2) remove facilities limitation and replace El Paso, TX with El Paso County, TX, and Dona Ana and Otero Counties, NM; (3) remove restrictions against service to AK and HI; and (4) remove the restriction to traffic originating at or destined to named points. The purpose of this republication is to add two counties to part (2), which were inadvertently omitted in the original publication.

MC 150145 (Sub-2)X, filed August 26, 1981. Applicant: RALPH L. NORTON, P.O. Box 27, Jericho, VT 05465. Representative: W. Norman Charles, P.O. Box 724, Glens Falls, NY 12801. Applicant seeks to remove restrictions in his MC 150145 Sub-No. 1 certificate to (1) broaden the commodity description from paper, and materials, equipment and supplies used in the manufacture of paper, to "pulp, paper and related products and materials, equipment and supplies used in the manufacture thereof" and (2) replace service point with county-wide authority as follows: Gilman, VT, with Essex County, VA. Applicant also seeks to broaden the commodity descriptions from (a) soda, malt beverages, wine, and empty glass bottles in his MC 136489 (lead) permit, and (b) malt beverages, empty malt beverage containers, soda beverages, empty glass bottles and wine in his Sub-No. 2 permit to "food and related products, and glassware, containers and closures"; remove the "except in bulk, in tank vehicles" restriction in his Sub-No. 2 (part 5) permit; and to expand the territorial description in each permit to between points in the United States under contract(s) with named shippers.

MC 150445 (Sub-2)X, filed September 8, 1981. Applicant: ALFONSO V. MANGIONE, 510 S. Main St., Pittston, PA 18640. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Applicant seeks to remove restrictions in its Sub-No. 1F certificate to (1) broaden its commodity description to "coal and coal products", from coal; and (2) replace cities with county-wide authority: Ashley, Hazleton, and Shennandoah, PA, with Luzerne and Schuylkill Counties, PA; and Binghamton, NY, with Broome County, NY.

[FR Doc. 81-27185 Filed 9-17-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the

application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-262

Decided: September 14, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 158050, filed August 31, 1981. Applicant: QUALITY TRANSPORT SERVICES, INC., Suite 300, Landover Mall West, Landover, MD 20785. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006, (202) 833-8884. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No. OPY-2-173

Decided: September 9, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 139532 (Sub-3), filed August 28, 1981. Applicant: MERLIN MARTIN MOVING & STORAGE, INC., 1306 South Jefferson, Wadena, MN 56482. Representative: James B. Hovland, 525 Lumber Exchange Bldg., 10 S. 5th St., Minneapolis, MN 55402, 612-340-0808. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 147313 (Sub-2), filed August 28, 1981. Applicant: JOHN PEFROMMER, INC., Box 307, Douglassville, PA 19518. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101, 703-893-4924. Transporting for or on behalf of the Untied States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 156942 (Sub-1), filed August 25, 1981. Applicant: RAYMOND M. CHENOWETH AND SAMUEL A. BRUNI, d.b.a. BEST WEST EXPRESS, 1900 Westland Drive, Las Vegas, NV 89102. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701, 702-882-5649. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 157992, filed August 28, 1981. Applicant: Claude Bell d.b.a. C & G TRANSPORT, MILL St., Mars Hill, ME 04758-0263. Representative: Glenda D. Bell, (same address as applicant), 207-425-4361. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 158013, filed September 1, 1981. Applicant: TRANSPORT SYSTEMS U.S.A., INC., 565 Plank Rd., Waterbury, CT 06705. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, 717-344-8030. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OPY-3-167

Decided: September 11, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 152764 filed July 6, 1981, previously published in the Federal Register on July 22, 1981, as MC-156764. Applicant: L.V.L., INC., P.O. Box 767, 221 S. Redmond Rd., Jacksonville, AR 72076. Representative: Larry Vassar (same address as applicant), (501) 982-0806.

Note.—The publication in the Federal Register on July 22, 1981, is correct, but docket No. MC-156764, should read MC-152764.

MC 156565 (Sub-1), filed September 3, 1981. Applicant: WILLIAM K. BOUNT, d.b.a. SWEETWILLIAM TRUCKING, 4942 El Monte Ave., Temple City, CA 91780. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017, (213) 483-4700. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 158005, filed August 31, 1981. Applicant: STATEWIDE DELIVERY SERVICE, INC., 18 Liberty Ave., Somerville, MA 02144. Representative: John F. O'Donnell, 60 Adams St., P.O. Box 238, Milton, MA 02187, (617) 696-7610. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 158034, filed September 1, 1981. Applicant: JAMES NESBITT d.b.a. NESBITT TRUCKING, 35 Turnpike Rd., Southborough, MA 01745. Representative: Robert D. Hansen, P.O. Box 625, Framingham, MA 01701 (800) 225-9490. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OPY-4-362

Decided: September 4, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 135037 (Sub-1), filed August 31, 1981. Applicant: BONDED MOVING & STORAGE CO., INC., 2975 W. Edgemont Ave., Montgomery, AL 36108. Applicant: Lawson A. Goray (same address as applicant) (205) 281-0140. Transporting used *household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 158007, filed August 31, 1981. Applicant: HERBERT W. SMITH, 400 Mound City Rd., Box 1282, West Memphis, AR 72301. Representative: Dale Woodall, 900 Memphis Bank Bldg., Memphis, TN 38103 (901) 525-6781. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OPY-4-366

Decided: September 11, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 150716 (Sub-2), filed September 4, 1981. Applicant: J. R. S. LEASING CHARTER, INC., 9445 S. 51st Ave., Oak

Lawn, IL 60453. Representative: Joseph Winter, 29 S. LaSalle St., Chicago, IL 60603 (312) 263–2306. As a *broker of general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-27162 Filed 9-17-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract". Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–261

Decided: September 14, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 93021 (Sub.3), filed September 20, 1981. Applicant: RUSSELL TRANSFER CO., INC., 1300 Pegram Street, Charlotte, NC 28205. Representative: Earl W. White (same address as applicant) (704) 376–3368. Transporting *household goods*, between points in FL, GA, NC, SC, TN, VA, and the District of Columbia.

MC 117201 (Sub-58), filed September 2, 1981. Applicant: INTERSTATE DISTRIBUTOR CO., 8311 Durango S.W., Tacoma, WA 98499. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, (206) 228–3807. Transporting *general commodities* (except classes A and B explosives), between points in WA, OR, CA, ID, NV, AZ, NM, UT, WY, CO, and MT.

MC 138960 (Sub-22), filed September 3, 1981. Applicant: ROKO EXPRESS, INC., 819 West Fifth Avenue, PO Box 169, Columbus, OH 43212. Representative: H. Barney Firestone, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603 (312) 263–1600. Transporting *general commodities* (except classes A and B explosives), between points in IL, IN, OH and MI, on the one hand, and, on the other, points in KY, TN, MO, MS, AR, LA, AL, GA, FL, VA, WV, SC and NC.

MC 145281 (Sub-3), filed September 3, 1981. Applicant: JAMES P. KEEGAN CO. INC., Route 9 H, PO Box 426, Kinderhook, NY 12106. Representative: Louise E. Keegan (same address as applicant) (518) 758–9501. Transporting *pulp, paper and related products*, between points in Albany, Columbia, Rennselaer, and Saratoga Counties, NY, on the one hand, and, on the other, points in CT, MA, and RI.

MC 147571 (Sub-4), filed August 31, 1981. Applicant: TWIN RIVERS TRANSPORTATION COMPANY, a Corporation, 500 Armory Drive, South Holland, IL 60473. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603 (312) 236–9375. Transporting *food and related products*, between Kansas City, MO, and points in Macon, Carroll, Saline and Sullivan Counties, MO, on the one hand, and on the other, points in the U.S.

MC 147571 (Sub-5), filed August 31, 1981. Applicant: TWIN RIVERS TRNASORTATION COMPANY 500 Armory Drive, South Holland, IL 60473. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Transporting *plastic products*, between points in Cumberland County, NC, Florence County, SC and Wood County, WV, on the one hand, and, on the other, points in CA, IL, MI, OH, PA and TX.

MC 154681 (Sub-4), filed September 2, 1981. Applicant: NORTH CENTRAL TRANSPORTATION, INC., R.R. #2, Box 83B, Fargo, ND 58102. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126 (701) 235–4487. Transporting *lumber and wood products*, between points in the U.S., under continuing contract(s) with AmPac Hardwoods, Inc., of Portland, OR.

MC 155801, filed September 3, 1981. Applicant: JAMES H. LONG, d.b.a. SENECA EXPRESS, Route 2, Box 209–A, Seneca, MO 64865. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804 (417) 883–7311. Transporting *general commodities* (except classes A and B explosives), between points in Jasper and Newton Counties, MO, on the one hand, and, on the other, points in Ottawa County, OK.

Volume No. OPY–2–170

Decided: September 10, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 123233 (Sub-96), filed August 10, 1981. Applicant: PROVOST CARTAGE INC., 7887 Grenache St., Ville d'Anjou, Quebec, Canada H1J 1C4. Representative: William H. Shawn, 1730, Suite 501, Washington, DC 20036, 202–296–2900. Transporting *commodities in bulk*, between ports of entry on the international boundary line between the United States and Canada, on the one

hand, and, on the other, points in the U.S.

MC 142723 (Sub-6), filed August 31, 1981. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219–2383, 412–471–1800. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Fishers Big Wheel, Inc., of New Castle, PA.

MC 142723 (Sub-8), filed August 31, 1981. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: John A. Vouno, 2310 Grant Bldg., Pittsburgh, PA 15219–2383, 412–471–1800. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Giant Eagle Markets, Inc., of Pittsburgh, PA.

MC 144732 (Sub-5F), filed August 24, 1981. Applicant: S & S TRUCKING, INC., Alzada Star, Route, Belle Fourche, SD 57717. Representative: J Maurice Andren, 1734 Sheridan Lake Rd, Rapid City, SD 57701, (605) 343–4036. Transporting *clay, Concrete, Glass or stone products,* between points in Butte County, SD and Crook County, WY, on the one hand, and, on the other, points in CO KS, MT, ND, OK, SD, TX, and WY.

MC 145102 (Sub-80), filed August 31, 1981. Applicant: FREYMILLER TRUCKING, INC., 1400 South Union Ave., Bakersfield, CA 93307 Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703, 608–256–7444. Transporting *food and related products,* between points in Grand Traverse County, MI and Scott County, MS, on the one hand, and, on the other, points in the U.S.

MC 150812 (Sub-5), filed August 24, 1981. Applicant: FROST TRANSPORTATION, INC., P.O. Box 3400, Shreveport, LA 71103. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517 Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Marathon Carey-McFall Company, of Montoursville, PA and Whittaker Corporation and its Divisions and Subsidiaries, of Los Angeles, CA.

MC 157943, filed August 27, 1981. Applicant: THE TRAVEL CENTER, INC., 2365 Hampton Ave., St. Louis, MO 63139. Representative: Theodore M. Turnbough (same address as applicant) 314–647–7900. As a *broker* at St. Louis, MO, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* beginning and ending at those points in MO and IL, on and north of U.S. Hwy 136, on and east of Interstate Hwy 57, on and south of U.S. Hwy 60, and on and west of U.S. Hwy 65, on the one hand, and, on the other, points in the U.S.

MC 158012, filed August 31, 1981. Applicant: HENRY L. TAYLOR, Box 173, R.D. #1, Biglerville, PA 17307. Representative: Christian V Graf, 407 N. Front St., Harrisburg, St., Harrisburg, PA 17101, 717–236–9318. Transporting (1) *lumber and wood products,* between points in Adams County, PA, on the one hand, and, on the other, points in OH, MI, IL, IN, TN, KY, VA, WV, MD, MO, AR, and WI, (2) *machinery,* between points in Berrien County, MI, and Adams County, PA, on the one hand, and, on the other, points in OH, MI, IL, IN, TN, KY, VA, WV, MD, MO, AR, and WI, and (3) *food and related products,* between points in Adams and Franklin Counties, PA, and Berkeley County, WV, on the one hand, and, on the other, points in OH, MI, IL, IN, TN, KY, VA, WV, MD, MO, AR, and WI.

MC 158033, filed September 1, 1981. Applicant: CARTER INDUSTRIAL SERVICES, INC., 2501 Fairview, Anderson, IN 46011. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017, 614–889–2531. Transporting *general commodities* (except classes A and B explosives), between those points in the U.S., in and east of ND, SD, NE, KS, OK, and TX.

Volume No. OPY–2–174

Decided: September 9, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 25823 (Sub-13), filed August 28, 1981. Applicant: WERCH TRUCKING, INC., Rte. #2, Box 113, Berlin, WI 53923. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, 608–256–7444. Transporting *foundry products* and *metal products,* between points in Green Lake County, WI, on the one hand, and, on the other, points in the U.S.

MC 108313 (Sub-17), filed August 21, 1981. Applicant: CALEDONIA LINES, INC., 100 Sunny Sol Blvd., P.O. Box 8, Caledonia, NY 14423. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, 315–472–8845. Transporting *chemicals and related products,* between points in the U.S., under continuing contract(s) with Drake Corporation, of New York, NY. Condition: To the extent this certificate authorizes the transportation of Classes A and B explosives, it shall be limited to a period expiring 5 years from its date of issuance.

MC 111023 (Sub-9), filed August 31, 1981. Applicant: BARRY LEE GROFF & SON, INC., Box 227, R. D. No. 6, York, PA 17404. Representative: Daniel W. Krane, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011 (717) 761–0520. Transporting (1) *machinery,* between Gallipolis, OH, on the one hand, and, on the other, points in the U.S.; and (2) *general commodities* (except classes A and B explosives), between points in York, Adams, Dauphin, and Lancaster Counties, PA, and Harford and Cecil Counties, MD, on the one hand, and, on the other, points in NJ, NY, DE, MD, PA, OH, VA, WV, CT, MI, NC, DC, and those in Houston County, GA, and Milwaukee County, WI.

MC 133262 (Sub-5), filed August 24, 1981. Applicant: TIGGES TRUCKING, INC., 5071 JFK Road, Dubuque, IA 52001. Representative: James M. Hodge, 1000 United Centeral Bank Bldg., Des Moines, IA 50309 (515) 243–6164. Transporting (1) *clay, concrete, glass or stone products,* (a) between points in Jo Daviess County, IL, on the one hand, and, on the other, points in Crawford, Grant and Lafayette Counties, WI, and Dubuque, Jackson, Jones, Delaware, Clinton and Linn Counties, IA, and (b) between points in Dubuque County, IA, on the one hand, and, on the other, points in Jo Daviess County, IL and Crawford, Grant and Lafayette Counties, WI; and (2) *liquid fertilizer solutions, anhydrous ammonia and fertilizer grade urea,* between points in Jo Daviess County, IL, on the one hand, and, on the other, points in IA.

MC 134922 (Sub-343), filed August 20, 1981. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118, 501–758–0777. Transporting (1) *general commodities,* between points in AK and HI, on the one hand, and, on the other, points in the U.S., (2) *commodities in bulk, household goods and classes A and B Explosives,* between points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 2, room 2379.

Note: Applicant by this application seeks to remove restrictions and modify authority

contained in its Sub-No 337 certificate by (1) broadening the commodity description from General commodities (except commodities in bulk, household goods as defined by the Commission, and Classes A and B explosives) to "General commodities" and to (2) remove the territorial exceptions of Alaska and Hawaii.

MC 135283 (Sub-74), filed August 26, 1981. Applicant: GRAND ISLAND EXPRESS, INC., 432 South Stuhr Road, P.O. Box 2122, Grand Island, NE 68802. Representative: Lloyd A. Mettenbrink (same address as applicant) (308) 384–8555. Transporting *food and related products,* between points in AL, AZ, AR, CA, CT, DE, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NW, NH, NJ, NM, NY, ND, OH, OK, PA, RI, SD, TN, TX, VT, VA, WV, WI, and DC.

MC 139023 (Sub-18), filed August 31, 1981. Applicant: 2–G TRANSPORTATION, INC., 12589 Rhode Island Ave. South, Savage, MN 55378. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd. Suite 307, Edina, MN 55424, 612–927–8855. Transporting *food and related products* and *such commodities* as are dealt in or used by manufacturers and distributors of containers (1) between points in KS, IL, IN, IA, MN, MO, MT, NE, ND, OH, SD, and WI, and (2) between points in KS, IL, IN, IA, MN, MO, MT, NE, ND, OH, SD, and WI, on the one hand, and, on the other, points in the U.S.

MC 140302 (Sub-5), filed August 25, 1981. Applicant: AMERICAN TANK TRANSPORT, INC., 5350 Ordnance Point Rd. Curtis Bay, MD 21225. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20879, (301) 840–8565. Transporting *commodities, in bulk,* between points in Frederick County, VA, on the one hand, and, on the other, points in Luzerne County, PA, and Camden County, NJ.

MC 144513 (Sub-20), (Correction) filed July 14, 1981, published in the Federal Register issue of August 12, 1981, is being republished as corrected this issue. Applicant: CONDOR CONTRACT CARRIER, INC., 656 Wooster St., Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, 402–475–6761. Transporting *clay concrete, glass or stone products,* between points in Tippah County, MS and Thomas County, GA, on the one hand, and, on the other, points in IN, OH, MI, *PA and NY. *The purpose of this republication is to correct the abbreviation of a state in the territory description.

MC 145282 (Sub-4), filed August 28, 1981. Applicant: FALCON TRANSPORT, INC., P.O. Box K, Bird-in-Hand, PA 17505. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043, 716–681–7190. Transporting *metal products* and *machinery,* between points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC.

MC 148183 (Sub-42), filed August 24, 1981. Applicant: ARROW TRUCK LINES, INC., Post Office Box 432, Industrial Blvd., Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348, Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004, (202) 737–2188. Transporting *food and related products,* between points in Jefferson County, KY, on the one hand, and, on the other, those points in and east of ND, SD, NE, KS, OK, and TX.

MC 148993 (Sub-4), filed August 27, 1981. Applicant: TILMON YEARWOOD, 14921 South Kedzie Ave., Markham, IL 60426. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, 312–782–8880. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of antifreeze, fuel additives, toilet preparations and health and beauty aids, between Chicago, IL, and points in Grundy County, IL, on the one hand, and, on the other, points in MI, IN, WI, IA, MN, MO and OH.

MC 151193 (Sub-15), filed August 25, 1981. Applicant: PAULS TRUCKING CORPORATION, 3 Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam (same address as applicant), 201–499–3869. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Interstate Express, Inc., of Brooklyn, NY.

MC 151483 (Sub-3), filed August 21, 1981. Applicant: LOVES'S TRUCKING, INC., 1841 E. State Route 55, Troy, OH 45373. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *lumber and wood products,* between the facilities and suppliers of Buckeye Wood Products, Inc., North Santiam Lumber Sales, Inc. and Wappoo Wood Products, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 151632 (Sub-10), filed August 31, 1981. Applicant: EASTWOOD CARRIERS, INC., P.O. Box 1073, Lockhouse Rd., Westfield, MA 01086. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting *lumber and wood products,* between points in the U.S., under continuing contract(s) with Lumber Sales Management, Inc., of Needham, MA.

MC 153273 (Sub-3), filed August 25, 1981. Applicant: SCHREIBER TRANSIT, INC., 425 Pine Street, P.O. Box 610, Green Bay, WI 54305. Representative: John H. Sage (same address as applicant), (414) 437–7601. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Fast Food Merchandisers Inc., of Rocky Mount, NC.

MC 153993, filed August 28, 1981. Applicant: TKN, INC., 1242 Shawmut Ave., New Bedford, MA 02741. Representative: Michael F. Morrone, 1150 17th St., NW., Suite 1000, Washington, DC 20036, (202) 457–1124. Transporting *metal products and machinery,* between points in the U.S., under continuing contract(s) with Tooltech, Inc., of Minneapolis, MN.

MC 154802, filed August 24, 1981. Applicant: RETAILERS AND MANUFACTURERS TRANSPORTATION, INC., 12 Gardner Road, Fairfield, NJ 07006. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067, (617) 784–6041. Transporting *such commodities* as are dealt in by retail department stores, between points in the U.S., under continuing contract(s) with Retailers and Manufacturers Distribution Marking Service, Inc., of Fairfield, NJ.

MC 155242, filed August 28, 1981. Applicant: ADVANCE POOL DISTRIBUTION, INC., 3700 Central Ave., Detroit, MI 48120. Representative: Alex J. Miller, 555 S. Woodward, Suite 512, Birmingham, MI 48011, 313–647–3350. Transporting *general commodities* (except classes A and B explosives), between points in Wayne County, MI, and Detroit, MI, on the one hand, and, on the other, points in MI.

MC 156843, filed August 27, 1981. Applicant: PETERS BROTHERS, INC., 37 Penn St., Lenhartsville, PA 19534. Representative: John Fullerton, 407 N. Front St., Harrisburg, PA 17101. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of meat and meat products, between points in Dakota County, NE, on the one hand, and, on the other, points in Berks County, PA.

MC 157872, filed August 25, 1981. Applicant: PROSPECT SLOPE COACH CORP., 396 Third St., Brooklyn NY 11215. Representative: Paul Spinelli (same address as applicant), 212–768–3477. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending in New York, NY, and extending to points

in CT, DE, FL, GA, KY, MA, NH, NJ, MD, NC, OH, PA, SC, TN, VT, VA, WV, RI, DC, and ports of entry on the international boundary line between the U.S. and Canada.

MC 157873, filed August 25, 1981. Applicant: FRED'S OF MERIDIAN, INC., P.O. Box 5105, Meridian, MS 39301. Representative: H. J. Holcomb, 4300 New Getwell Road, Memphis, TN 38118, (901) 365-8880 (Ext. 3053). Transporting *such commodities* as are dealt in by department stores, between points in the U.S., under continuing contract(s) with Baddour, Inc., of Memphis, TN.

MC 157922, filed August 25, 1981. Applicant: CALUDE LAFRENIERE TRUCKING, LTD., 3 Demers, P.O. Box 1024, Chapleau, Ontario, Canada POM 1KO. Representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226, (313) 962-6492. In foreign commerce, transporting *lumber and wood products,* between the ports of entry on the international boundary line, between the U.S. and Canada, on the one hand, and, on the other, points in the U.S.

MC 157963, filed August 28, 1981. Applicant: J & R LEASING, INC., 3935 Ducan Ave., St. Louis, MO 63110. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102, (314) 635-7166. Transporting *general commodities* (except classes A and B explosives), between points in CA, IL, KY, TN, IN, AR, and NY, on the one hand, and, on the other, St. Louis, MO, and points in St. Louis, Jackson, and Greene Counties, MO.

Volume No. OPY-3-166

Decided: September 10, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 35835 (Sub-33), filed August 31, 1981. Applicant: JENSEN TRANSPORT, INC., 300 Ninth Avenue S.E., Independence, IA 50644. Representative: Kenneth F Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682-8154. Transporting *corn products,* between the facilities of Cargil, Inc., in the U.S., on the one hand, and, on the other, points in the U.S.

MC 46054 (Sub-86), filed September 2, 1981. Applicant: BROWN EXPRESS, INC., P.O. Box 9244, San Antonio, TX 78204. Representative: Phillip Robinson, P.O. Box 2207, Austin, TX 78768, (512) 476-6391. Transporting *general commodities* (except classes A and B explosives), between points in Cameron, Hidalgo and Webb Counties, TX, on the one hand, and, on the other, points in AL, AR, IA, IL, IN, KS, KY, LA, MI, MS, MO, OH, OK, TN, those in NY on and west of Interstate Hwy 81, those in PA on and west of Interstate Hwy 79, and those in WV on and west of a line beginning at the PA-WV State line and extending along Interstate Hwy 79 to junction Interstate Hwy 77, then along Interstate Hwy 77 to the WV-VA State line.

MC 61505 (Sub-27), filed August 31, 1981. Applicant: G. R. MYERS MOTOR TRANSPORTATION, INC., 3950 Eastern Rd., Barberton, OH 44203. Representative: Paul F Beery, 275 E. State St., Columbus, OH 43215, (614) 228-8575. Transporting *metal products, machinery,* and *those commodities which because of their size or weight, require the use of special handling or equipment,* between points in the U.S. under continuing contract(s) with Babcock and Wilcox, of Barbeton, OH.

MC 99565 (Sub-21), filed August 31, 1981. Applicant: FORE WAY EXPRESS, INC., 204 S. Bellis Street, Wausau, WI 55401. Representative: Nancy J. Johnson, 103 East Washington Street, Box 218, Crandon, WI 54520, (715) 478-3341. Transporting *general commodities* (except classes A and B explosives), between points in WI, MI, IL, IN, OH, IA, and MN.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 99975 (Sub-3), filed September 3, 1981. Applicant: CATAWBA TRUCKING CO., INC., P.O. Box 10352, Rock Hill, SC 29730. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006, (201) 575-7700. Transporting *general commodities* (except classes A and B explosives) (a) between points in York County, SC, (b) between points in Greenville and Spartanburg Counties, SC, and (c) between points in York County, SC, on the one hand, and, on the other, points, in SC.

MC 106674 (Sub-527), filed August 31, 1981. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977 Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603, (312) 236-9375. Transporting *general commodities* (except classes A and B explosives), (1) between points in AL, AZ, AR, CA, CO, CT, FL, GA, ID, IA, KS, LA, ME, MA, MN, MS, MT, NE, NV, NH, NM, ND, OK, OR, RI, SC, SD, TX, UT, VT, WA, WI, WY, and DC; and (2) between points in AL, AZ, AR, CA, CO, CT, FL, GA, ID, IA, KS, LA, ME, MA, MN, MS, MT, NE, NV, NH, NM, ND, OK, OR, RI, SC, SD, TX, UT, VT, WA, WI, WY, and DC, on the one hand, and, on the other, points in DE, IL, IN, KY, MD, MI, MO, NJ, NY, NC, OH, PA, TN, VA, and WV.

MC 110325 (Sub-181), filed August 31, 1981. Applicant: TRANSCON LINES; P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105, (816) 221-1464. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with The Goodyear Tire & Rubber Company, of Akron, OH.

MC 116325 (Sub-92), filed August 31, 1981. Applicant: JENNINGS BOND, d.b.a. BOND ENTERPRISES, P.O. Box 8, Lutesville, MO 63762. Representative: Jennings Bond, (same address as applicant), (314) 238-2601. Transporting (1) *pipe, pipe fittings, couplings,* and *connections,* and (2) *accessories* for commodities named in (1) above, between points in Montgomery County, IL, on the one hand, and, on the other, points in the U.S.

MC 117165 (Sub-66), filed August 31, 1981. Applicant: ST. LOUIS FREIGHT LINES, INC., 1111 U.S. Highway 20 West, Michigan City, IN 46360. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309, (515) 243-6164. Transporting (1) *building materials* and *refractory products,* between the facilities of General Refractories Company, at points in IA, IL, IN, KS, KY, MD, MI, MO, NE, NJ, OH, PA, TN, and WV, on the one hand, and, on the other, points in IA, IL, IN, KS, KY, MD, MI, MO, NE, NJ, OH, PA, TN, and WV and (2) *lumber and wood products,* and *building materials,* between the facilities of Champion International Corporation, at those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 127115 (Sub-28), filed August 31, 1981. Applicant: MILLERS TRANSPORT, INC., 510 W. 4th N., Hyrum, UT 84319. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111, (801) 531-1300. Transporting *aluminum products,* between points in the U.S., under continuing contract(s) with Easton Aluminum of Salt Lake City, UT.

MC 134094 (Sub-10), filed September 9, 1981. Applicant: HEIGHT'S SERVICE, INC., 521 E. Nevada Avenue, St. Paul, MN 55101. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th Street, Minneapolis, MN 55402, (612) 333-1341. Transporting *general commodities* (except classes A and B explosives), between points in U.S., under continuing contract(s) with (1)

National Purity Soap and Chemical Co., (2) Hawkins Chemicals, Inc., both of Minneapolis, MN, and Chemical Distribution, Incorporated, of Westmont, IL.

MC 135215 (Sub-12), filed August 31, 1981. Applicant: BULK TRANSPORTATION, 415 Lemon Ave., Walnut, CA 91789. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting *coal products,* between points in U.S., under continuing contract(s) with Seal King Mfg., a Division of Yardley Construction Co., Inc., of Oroville, CA.

MC 135705 (Sub-17), filed August 31, 1981. Applicant: MELROSE TRUCKING CO., INC., 2671 So. Robertson Rd., Casper, WY 82604. Representative: Kim Melrose, (same address as applicant), (307) 265–1277. Transporting *Mercer commodities,* in those points in and west of ND, SD, NE, KS, OK, TX and LA.

MC 135725 (Sub-22), filed August 31, 1981. Applicant: FRY TRUCKING, INC., 507 W. 5th St., Wilton, IA 52778. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52051, (515) 682–8154. Transporting *general commodities* (except classes A and B explosives), between the facilities of Ralston Purina Company and its subsidiaries at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 139495 (Sub-540), filed August 27, 1981. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 818 Connecticut Avenue, NW., Washington, DC 20006, (202) 331–3700. Transporting *general commodities* (except classes A and B explosives), between points in U.S.

MC 140945 (Sub-6), filed August 31, 1981. Applicant: JAMES W. CROWE, INC., 307 Brennan Rd., Columbus, GA 31903. Representative: C. E. Walker, P.O. Box 1085, Columbus, GA 31902, (404) 323–2416. Transporting *liquid fertilizer,* and *liquid agricultural chemicals,* between points in the U.S., under continuing contract(s) with USS Agri-Chemicals Division, United States Steel Corporation, of Atlanta, GA.

MC 141255 (Sub-19), filed August 31, 1981. Applicant: TANDY TRANSPORTATION, INC., 2560 E. Long Ave., Fort Worth, TX 76111. Representative: A. Roy Beans (same address as applicant), (817) 834–0182. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Univex International Ltd., of Monument, CO.

MC 143354 (Sub-1), filed August 26, 1981. Applicant: ELMER VAN NEVEL, d.b.a. VAN NEVEL & CO., 23591 N. Overhill, Lake Zurich, IL 60047. Representative: Donald S. Mullings, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298–1094. Transporting (1) *metal products,* and (2) *machinery,* between points in Cook, Kane, Lake, McHenry, and Winnebago Counties, IL, on the one hand, and, on the other, points in the U.S.

MC 143415 (Sub-4), filed August 25, 1981. Applicant: D.M.R. TRANSPORT (91975), LTD., Hwy 97 No., Grinrod, British Columbia, Canada VOE 1YO. Representative: Michael B. Crutcher, 2000 IBM Bldg., Seattle, WA 98101, (206) 623–7580. Transporting *general commodities* (except classes A and B explosives), between points on the international boundary line between the U.S. and Canada at WA, ID, MT, ND, and MN, on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, IL, IN, IA, KS, LA, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TX, UT, WA, WI and WY.

MC 145154 (Sub-4), filed September 2, 1981. Applicant: YOUNG'S TRANSPORTATION CO., P.O. Box 7200, 1230 West 17th Street, Houston, TX 77008. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW., Washington, DC 20005, (202) 347–9332. Transporting (1) *general commodities* (except classes A and B explosives), between points in Hidalgo, Willacy, Nueces, San Patricio, Galveston, Fort Bend, Brazoria, Harris, Chambers, Montgomery, Dallas, Tarrant, Rockwell, Kaufman, Ellis, Johnson, Parker, Denton, Collin and Wise Counties, TX, on the one hand, and, on the other, points in the U.S., and (2) *plastic and rubber products,* between Atlanta, GA, on the one hand, and, on the other, points in the U.S.

MC 145855 (Sub-8), filed August 31, 1981. Applicant: JOHN RAY TRUCKING, INC., P.O. Box 206, Eastaboga, AL 35260. Representative: John W. Cooper, P.O. Box 56, Mentone, AL 35984, (205) 634–4885. Transporting *pipe and pipe fittings,* between points in the U.S., under continuing contract(s) with Pacific States Cast Iron Pipe Co., of Provo, UT, and Cast Iron Pipe Co., of Atlantic City, NJ, both division of McWane, Inc.

MC 146964 (Sub-19), filed August 28, 1981. Applicant: RELIABLE TRUCK LINES, INC., 1451 Spahn Ave., York, PA 17403. Representative: Michael Valencik (same address as applicant), (717) 845–7030. Transporting *alcoholic beverages,* between points in ME, on the one hand, and, on the other, points in the U.S.

MC 149195 (Sub-16), filed August 31, 1981. Applicant: ARCADIAN MOTOR CARRIERS, 1100 Sierra St., Kingsburg, CA 93631. Representative: James F. Hauenstein, 1100 Sierra St., Kingsburg, CA 93631. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Rug Doctor, Inc., of Fresno, CA.

MC 149235 (Sub-7), filed September 2, 1981. Applicant: C. MAXWELL TRUCKING CO., INC., 9108 Reeds Dr., Overland Park, KS 66207. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Ste. 600, Kansas City, MO 64105, (816) 221–1464. Transporting *chemicals,* between points in the U.S., under continuing contract(s) with Texaco Chemical Company of Bellaire, TX.

MC 151935, filed August 28, 1981. Applicant: WESBELL TRANSPORT LTD., 6149 Shawson Drive, Mississauga, Ontario, Canada L5T 1E4. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202, (716) 854–5870. Transporting *telephone equipment, electrical supplies, switchboards, PBX switchboard equipment,* and *powerpacks, digital equipment, batteries, crossbar frames,* and *carrier equipment,* between points in the U.S., under continuing contract(s) with Northern Telecom Canada Limited, Islington, Canada.

MC 152074 (Sub-3), filed September 3, 1981. Applicant: KEY-STONE FREIGHT, INC., 767 St. George St., Woodbridge, NJ 07095. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435–7140. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Abex Corporation of New York, NY, Argus Chemical Corp., Division of Witco Chemical Corporation of Brooklyn, NY, and K Mart Apparel Corporation of North Bergen, NJ.

MC 154964, filed August 31, 1981. Applicant: WILCOX TRANSFER CO., 3700 Brookpark Road, Cleveland, OH 44134. Representative: J. C. Schriner, 19706 Center Ridge Road, Rocky River, OH 44116, (216) 333–4678. Transporting *household appliances* and *audio-video products,* between points in Cuyahoga County, OH, on the one hand, and, on the other, points in OH.

MC 155924 (Sub-1), filed August 31, 1981. Applicant: ALANDALE TRUCKING CO., INC., N60 W15725 Kohler Lane, Menonomee Falls, WI 53051. Representative: Richard C. Alexander, 710 North Plankinton Ave.,

Milwaukee, WI 53203, (414) 273-7410. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with (1) American Paper & Packaging Corp., of Wauwatosa, WI, (2) Field Container Corporation, of Elk Grove Village, WI, (3) M. A. Gerett Division of Western Industries, Inc., of Menomonee Falls, WI, and (4) Reliable Paper Company, of Brookfield, WI.

MC 155954, filed August 31, 1981. Applicant: GREGG E. HERIFORD, d.b.a. G & H SAND AND GRAVEL, 5312 N.E. 66th Ave., Vancouver, WA 98661. Representative: Peter H. Glade, One S.W. Columbia, Suite 555, Portland, OR 97258. Transporting *building materials,* between points in OR, WA, ID, NV, CA, MT, CO, AZ, NM, UT, and WY.

MC 155664, filed September 2, 1981. Applicant: M. L. YOCKSTICK d.b.a. M. L. YOCKSTICK TRUCKING, Box 88, King City, MO 64463. Representative: Thomas E. Leahy, Jr., 1890, Financial Center, Des Moines, IA 50309, (515) 245-4300. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Food Distributing Service, Inc. of Kansas City, MO.

MC 157524, filed August 3, 1981, previously published in the Federal Register of August 25, 1981. Applicant: TRADESHOW TRANSPORTATION BROKERAGE CORP., 800 West Lunt Ave., Schaumburg, IL 60193. Representative: Volker R. Volpe (same address as applicant), (312) 351-8188. As a *broker of general commodities,* between points in the U.S.

Note.—This republication has the correct prefix.

MC 157745, filed September 1, 1981, Applicant: MIDWAY MACHINERY MOVERS INC., 92 Berczy St., Aurora, Ontario, Canada L4G 3H1. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court St., Buffalo, NY 14202, (716) 853-0200. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Bakery Salvage Corporation, of Buffalo, NY.

MC 157885, filed August 24, 1981, Applicant: MARITIME SERVICES, INC. 9640 Clinton Drive, P.O. Box 33, Houston, TX 77547. Representative: John G. Wentz, Jr., 7863 Cook Rd., Houston, TX 77072, (713) 495-2125. In foreign commerce only, transporting *general commodities* (except classes A and B explosives), (a) between Houston, Galveston, and Freeport, TX, on the one hand, and, on the other, points in TX, restricted to traffic having a prior or subsequent movement by water, and (b) between Houston, Galveston, and Freeport, TX, on the one hand, and, on the other, New Orleans, LA, restricted to traffic having a prior or subsequent movement by water.

MC 157945, filed August 28, 1981, Applicant: AFRAM BROS. CO., 900 South Water Street, Milwaukee, WI 53204. Representative: Glenn Madson (same address as applicant), (414) 672-2100. Transporting *scrap and manufactured steel commodities,* between points in the U.S., under continuing contract(s) with Preway, Inc., of Wisconsin Rapids, WI and Charter Manufacturing Co., of Mequan, WI.

MC 157954, filed August 28, 1981, Applicant: JOURNEY LINES, INC., 18807 88th W., Edmonds, WA 98020. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055, (206) 235-1111. Transporting *passengers and their baggage,* in special or charter operations, beginning and ending at points in WA, and extending to points in WA, AZ, CA, CO, ID, MT, NM, NV, OR, UT and WY.

MC 157964, filed August 27, 1981. Applicant: MALCOLM WEBSTER AND DORTHY WEBSTER, d.b.a. WEBSTER EXPRESS, P.O. Box 212, Camdenton, MO 65020. Representative: Stephen G. Newman, P.O. Box 456, Jefferson City, MO 65102, (314) 635-7166. Transporting *gneral commodities* (except classes A and B explosives), between points in Greene County, MO, on the one hand, and, on the other, points in Camden, Morgan, and Miller Counties, MO.

MC 158035, filed September 1, 1981. Applicant: MILLER GRAVEL & READY MIX, INC., P.O. Box 728, Cando, ND 58324. Representative: Roger Miller (same address as applicant), (701) 968-3810. Transporting *fertilizer,* between points in MN, on the one hand, and, on the other, points in MT and ND.

MC 158055, filed September 3, 1981. Applicant: PEMBROKE TRANSPORTATION CORP., 15 Baldwin Street, Massena, NY 13662. Representative: Zoe Ann Pace, One World Trade Center, Suite 2373, New York, NY 10048, (212) 432-0940. Transporting *pulp, paper and related products,* between points in the U.S., under continuing contract(s) with Potsdam Paper Corp., of Potsdam, NY.

Volume No. OPY-3-168

Decided September 10, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 116254 (Sub-328), filed September 1, 1981. Applicant: CHEM-HAULERS, INC., 118 E. Mobile Plaza, Florence, AL 35631. Representative: Fred H. Daly, 2550 M St., N.W., Washington, DC 20037. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 123115 (Sub-26), filed September 4, 1981. Applicant: PACKER TRANSPORTATION CO., 280 Parr Blvd., Reno. NV 89512. Representative: Robert C. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882-5649. Transporting *general commodities* (except classes A and B explosives), between those points in the U.S. in and west of AL, TN, MO, IL, and WI.

MC 138164 (Sub-8), filed August 31, 1981. Applicant: CAN-AM MARINE TRANSIT LIMITED, 472 Main Rd., P.O. Box 790, Hudson, Quebec, Canada JOP 1HO. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court St., Buffalo, NY 14202, (716) 853-0200. Transporting *transportation equipment,* between ports of entry on the interational boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S.

MC 146965 (Sub-3), filed September 4, 1981. Applicant: REDDING LUMBER TRANSPORT, INC., 4161 Eastside Rd., Redding, CA 96001. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055, (206) 235-1111. Transporting *beverages,* between points in CA, OR, NV and WA.

MC 148964 (Sub-1), filed August 31, 1981. Applicant: W. L. WAGGONER TRUCKING CO., No. 4 Caine Drive-Stephen Maeras Industrial Park, Madison, IL 62060. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425-13th St., N.W., Washington, D.C. 20004, (202) 737-1030. Transporting *those commodities which because of their size or weight require the use of special handling or equipment,* between points in AL, AR, FL, GA, IL, IN, IA, KS, KY, MI, MS, MO, NE, OH, OK, TN, TX, VA, WV, and WI.

MC 158054, filed August 31, 1981. Applicant: JUSTAK BROTHERS AND COMPANY, INC., P.O. Box 389, Whiting, IN 46394. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635-2339. Transporting *hazardous and non-hazardous waste and recyclable waste materials,* between points in Lake County, IN, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 158064, filed September 3, 1981. Applicant: LP SERVICE, INC., P.O. Box 666, Clarkesville, GA 30523. Representative: J. L. FANT, P. O. Box 577, Jonesboro, GA 30237, (404) 477-

1525. Transporting *liquified petroleum gas,* between points in Lamar County, GA, on the one hand, and, on the other, points in Swain, Haywood, Macon and Cherokee Counties, NC. Condition: The authority granted here is limited in point of time to a period of five (5) years from the date of issuance.

Volume No. OPY–4–361

Decided: September 3, 1981.

By the Commission-Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 8457 (Sub-14), filed August 28, 1981. Applicant: MILWAUKIE TRANSFER & FUEL CO., P.O. Box 522, Clackamas, OR 97015. Representative: Lawrence V Smart, Jr., 419 NW 23d Ave., Portland, OR 97210, (503) 226–3755. Transporting (1) *Lumber and wood products,* (2) *building materials,* (3) *machinery,* and (4) *metal products,* between points, in WA, OR, CA, ID, NV, UT, AZ, NM, TX, CO, UT, and MT.

MC 99117 (Sub-5), filed August 28, 1981. Applicant: T. H. RYAN CARTAGE CO., 111 S. Seventh Ave., Maywood, IL 60153. Representative: Vytas P. Ambutas, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603, (313) 263–1600. Transporting *metal products,* between points in the U.S., under continuing contract(s) with Gemini Metals, Inc., of Elk Grove Village, IL.

MC 99737 (Sub-4), filed August 31, 1981. Applicant: SUPERLINE TRANSPORTATION CO., INC., 111 Braley Rd., East Freetown, MA 02717. Representative: John DeGrazia (same address as applicant), 1–800–642–7558. Transporting *general commodities* (except classes A and B explosives), between points in MA, on the one hand, and, on the other, points in CT, ME, NH, NJ, NY, PA, RI, and VT.

MC 106707 (Sub-27), filed August 31, 1981. Applicant: ADAMS TRUCKING, INC., 1711 West 2nd St., Webster City, IA 50595. Representative: Ronald D. Adams (same address as applicant), (515) 832–2613. Transporting *metal products,* between Whiteside County, IL, on the one hand, and, on the other, points in the U.S.

MC 110567 (Sub-28), filed August 31, 1981. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304, (515) 245–2730. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Interbake Foods, Inc., of North Sioux City, SD.

MC 119237 (Sub-1), filed August 28, 1981. Applicant: CHAUFFEUR SERVICE, INC., 77 Oak St., Spotswood, NJ 08884. Representative: Robert B. Pepper, 168 Woodridge Ave., Highland Park, NJ 08904, (214) 572–5551. Transporting *racks, lighting fixtures and supplies, building materials, chemicals and related products, plastic and paper articles, health care and surgical products, swimming pool supplies,* and materials and supplies used in the manufacture and sale of the aforementioned commodities, between New York, NY and Monmouth County, NJ on the one hand, and, on the other, points in the U.S.

MC 140487 (Sub-5), filed August 28, 1981. Applicant: YELLOWSTONE TRUCKING, INC., 1212 Appleway, Coeur d' Alene, ID 83814. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting *general commodities* (except Classes A and B explosives), between points in the U.S., under a continuing contract(s) with Conwed Corporation of St. Paul, MN.

MC 147547 (Sub-19), filed August 28, 1981. Applicant: R & D TRUCKING COMPANY, INC., 4401 Mars Hill Road, Lauderdale Industrial Park, Florence, AL 35630. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Transporting *general commodities (except classes A and B explosives),* between the facilities of Industrial Lubricants Company in Tom Green County, TX, on the one hand, and, on the other, points in the U.S. and (2) between the facilities of Sterling Bolt Company in CO, Chicago, IL, Monroeville, PA, Dallas, TX and Houston, TX on the one hand, and, on the other, points in the U.S.

MC 148867 (Sub-4), filed August 28, 1981. Applicant: TRANS-ADVO, INC., 239 Service Road, West, Hartford, CT 06101. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067, (617) 784–6041. Transporting *printed matter and materials, equipment and supplies used in the production and shipping of printed matter,* between points in the U.S., under continuing contract(s) with Providence Gravure, Inc., of Providence, RI.

MC 148867 (Sub-5), filed August 28, 1981. Applicant: TRANS-ADVO, INC., 239 Service Road, West, Hartford, CT 06101. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067, (617) 784–6041. Transporting *wire, cable, conduit and equipment material and supplies used in the manufacture thereof,* between points in the U.S. under continuing contract(s) with Times Wire and Cable Division, Timer Fiber Communication, Inc., of Wallingford, CT.

MC 144757 (Sub-15), filed August 21, 1981. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 412 Oshkosh, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, (605) 343–4036. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Potlatch Corporation, of Spokane, WA.

MC 151267, filed August 28, 1981. Applicant: KETRAN, INC., 624 Main St., Moosic, PA 18507. Representative: Edward F. V. Pietrowski, 430 Scranton Life Bldg., Scranton, PA 18503, (717) 346–5761. Transporting *coal, coal ash, coal cinders, coal fines, and coal silt,* between points in the U.S., under continuing contract(s) with Keon Coal Co., Inc., of Pittston, PA.

MC 151607 (Sub-1), filed August 28, 1981. Applicant: TRANS-OVERLAND XPRESS, INC., 297 County Line Rd., Midlothian, TX 76065. Representative: Doris Hughes, P.O. Box 47861, Dallas, TX 75247, (214) 721–0360. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 151907, filed August 31, 1981. Applicant: STARR CARTAGE, INC., 10742 South Western Ave., Chicago, IL 60643. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *general commodities* (except classes A and B explosives), between Chicago, IL, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, WI, and OH.

MC 156047, filed August 31, 1981. Applicant: ALLWAY TRANSPORT, INC., 1949 Kings Hwy., Washington Park, IL 62204. Representative: Robert Knight, P.O. Box 1148, Washington Park, IL 62204, (618) 271–9541. Transporting *machinery, scrap metal, and transportation equipment,* between St. Louis, MO, on the one hand, and, on the other, points in IL, IN, KY, FL, OH, MI, MO, TN, KS, OK, AR, TX, LA, MS, AL, IA, and WI.

MC 157867 (Sub-1), filed August 31, 1981. Applicant: DONALD J. ORANGE, 1414 S.E. Spokane St., Portland, OR 97202. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *food and related products,* between points in OR, WA, CA, and ID.

MC 157997, filed August 28, 1981. Applicant: F. P. ELNICKI, INC., P.O. Box 586, Clarendon Ave., W. Rutland, VT

05777. Representative: Frank P. Elmicki (same address as applicant), (802) 438–2387. Transporting *construction equipment and materials,* between points in ME, VT, NH, MA, RI, CT, NY, and NJ.

Volume No. OPY–4–365

Decided: September 9, 1981.

By the Commission, Review Board No. 2, members Carleton, Fisher, and Williams.

FF–477 (Sub-1), filed August 17, 1981. Applicant: CROWN OVERSEAS FORWARDERS, 2070 Burroughs St., San Leandro, CA 94577. Representative: Daniel W. Baker, 100 Pine St., #2550, San Francisco, CA 94111, (415) 986–1414. As a freight forwarder, in connection with the transportation of (a) *used household goods and unaccompanied baggage,* and (b) *used automobiles,* between points in the U.S., with (b) restricted to import-export traffic or transportation to or from Alaska.

MC 19227 (Sub-256), filed August 31, 1981. Applicant: LEONARD BROS. TRUCKING CO., INC., 2515 N.W. 20th St., Miami, FL 33152. Representative: Robert F. McCaughey (same address as applicant), (305) 634–2661. Transporting (1) *metal products,* (2) *machinery,* (3) *transportation equipment,* and (4) *those commodities* which because of their size or weight requre the use of special handling or equipment, between points in AL, FL, GA, MS, NC, SC, and VA, on the one hand, and, on the other, points in the U.S.

MC 103937 (Sub-10), filed September 1, 1981. Applicant: ANTHRA TRANS, INC., R.D. 3, Moscow, PA 18444. Representative: Ronald N. Cobert, 1720 M St., NW., Suite 501, Washington, DC 20036, (202) 296–2900. Transporting *coal and coal products,* between points in PA, on the one hand, and, on the other, points in CT, MA, ME, NH, NJ, NY, RI, and VT.

MC 111747 (Sub-2), filed September 1, 1981. Applicant: MARYLAND MOTOR LINES, INC., 27 Industrial Blvd. East, P.O. Box 1518, Cumberland, MD 21502. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740, (301) 739–4860. Transporting *general commodities* (except classes A and B explosives), between points in MD, PA, and WV.

MC 146447 (Sub-9), filed September 2, 1981. Applicant: TANBAC, INC., 2941 SW 1st Terr., Ft. Lauderdale, FL 33315. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd ST., Miami, FL 33166, (305) 592–0036. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Dow Chemical Co., USA, of Gales Ferry, CT.

MC 157457, filed August 27, 1981. Applicant: CONGOLEUM CARTAGE CORPORATION, 2323 South 17th St., Elkhart, IN 56514. Representative: Daniel C. Sullivan, 10 South LaSalle St., Suite 1600, Chicago, IL 60603, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Congoleum Corporation, of Elkhart, IN, and its subsidiaries, Bath Iron Works Corporation, and Congoleum Cartage Corporation.

MC 157867, filed August 25, 1981. Applicant: DONALD J. ORANGE, 1414 SE Spokane St., Portland, OR 97202. Representative: Lawrence V. Smart, Jr., 419 NW 23rd St., Portland, OR 97210, (503) 226–3755. Transporting (1) *lumber and wood products,* between points in OR and WA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY, (2) *building materials,* between points in Marion County, OR, on the one hand, and, on the other, points in CA, ID, OR, and WA, and (3) *metal products,* between points in Alameda County, CA, on the one hand, and, on the other, points in AZ, ID, MT, NM, OR, and WA.

MC 157937, filed August 31, 1981. Applicant: RICHARD CAIL d.b.a. DICK'S TOWING, 104 Winn St., Woburn, MA 01801. Representative: Richard Cail (same address as applicant), (617) 933–1460. Transporting (1) *containers, and* (2) *wrecked and disabled vehicles,* between points in MA, on the one hand, and, on the other, points in CT, ME, NH, NJ, NY, RI, and VT.

MC 157987, filed August 31, 1981. Applicant: DYNAMIC CARGO TRANSPORT, Sleight Plass Rd., Poughkeepsie, NY 12603. Representative: David Michael Clark (same address as applicant), (914) 454–6363. Transporting *rubber and plastic products,* and *metal products,* between points in Dutchess County, NY, On the one hand, and, on the other, points in the U.S.

MC 158017, filed September 1, 1981. Applicant: P & P TRUCKING CORPORATION, 335 S. Forest Hill Dr., Austintown, OH 44515. Representative: Edwin Romero, 407 Legal Arts Center, Youngstown, OH 44503, (216) 747–5700. Transporting *iron and steel articles,* between points in Butler County, PA and those in Mahoning County, OH, on the one hand, and, on the other, points in OH, PA, MD, MO, KY, NJ, and TN.

MC 158027, filed August 31, 1981. Applicant: FRANKLIN CHARTER BUS, INC., 4115 Dorforth Dr., Fairfax, VA 22030. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 737–1030. Transporting *passengers and their baggage,* in charter and special operations, between those points in VA on and north of U.S. Hwy 60 and Washington, DC, on the one hand, and, on the other, points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 5331.

MC 158037, filed August 31, 1981. Applicant: ALMAC OF ARIZONA, INC., d.b.a. ADVANCE MOVING & STORAGE, 2831 West Indian School Rd., Phoenix, AZ 85017. Representative: Stanford E. Lerch, 650 North 2nd Ave., Phoenix, AZ 85003, (602) 257–5800. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Mountain States Telephone & Telegraph, of Denver, CO. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 5331.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81–27183 Filed 9–17–81; 8:45 am]
BILLING CODE 7035–01–M

[Docket No. AB–167 (Sub-No. 14F)]

Consolidated Rail Corp.; Abandonment Near Duncansville and Gallitzin, Pa.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board No. 3 issued a certificate authorizing Consolidated Rail Corporation to abandon its rail line from milepost 33.4 at Wye (near Duncansville) to milepost 48 at SF (near Gallitzin) in Blair County, PA, a total distance of 15.2 miles, subject to conditions. The abandonment certificate

will become effective 30 days after this publication unless the Commission also finds that:

(1) a financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) it is likely that:

(a) if a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) if a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the issuance of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days after an offer is made, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will be issued. Upon notification to the Commission of the execution of a subsidy or purchase agreement, the Commission shall further postpone the issuance of a certificate for such time as the agreement is in effect. Information and procedures regarding financial assistance for contined rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-27188 Filed 9-17-81; 8:45 am]

BILLING CODE 7035-01-M

[Nos. AB-2 (Sub-No. 29F), etc.]

Louisville and Nashville Railroad Co., et al.; Corrected Notice [1]

In the matter of No. AB-2 (Sub-No. 29F), Louisville and Nashville Railroad Company—abandonment between Bruceton and Rose Hill, TN; AB-2 (Sub-No. 30F), Louisville and Nashville Railroad Company—abandonment between Dresden and Union City, TN; AB-2 (Sub-No. 31F), Louisville and Nashville Railroad Company—abandonment between Paducah and Murry, KY; AB-43 (Sub-No 68F), Illinois Central Gulf Railroad Company—abandonment between Fordsville and Owensboro, KY; AB-43 (Sub-No. 69F), Illinois Central Gulf Railroad Company—abandonment at Elizabethtown, KY; AB-43 (Sub-No. 70F), Illinois Central Gulf Railroad Company—abandonment between Hopkinsville, KY and Nashville, TN.

Notice of the above noted abandonments was published in the Federal Register on March 31, 1981, (46 FR 19625), indicating that certificates of abandonment would be issued unless appropriate financial assistance offers were received within 10 days of the notice. This notice is now vacated. Notice will be republished concurrently with issuance of the Commission's administratively final decision for those abandonments which are ultimately approved.

By the Commission, Gary J. Edles, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-27185 Filed 9-17-81; 8:45 am]

BILLING CODE 7035-01-M

[No. 38632]

National Traffic Service Bureau, Inc.; Petition To Institute Rulemaking Proceeding Into the Practice of Furnishing Information on Freight Bills

AGENCY: Interstate Commerce Commission.

ACTION: Notice of denial of petition for rulemaking.

SUMMARY: The Commission has denied requests of Nationwide Traffic Service Bureau, Inc. and The David J. Joseph Company for the institution of a rulemaking which would impose regulations upon rail carriers requiring the issuance of detailed freight bills.

FOR FURTHER INFORMATION CONTACT: Jane Mackall (202) 275-7693.

SUPPLEMENTARY INFORMATION: Nationwide Traffic Service Bureau, Inc. (NTSB) and The David J. Joseph Company (Joseph) (petitioners) requested the institution of a rulemaking or other proceeding designed to impose upon rail carriers regulations requiring the issuance of freight bills which evidence all details necessary to verify charges assessed shippers. For reasons which follow, we deny the requests.

The alleged problems encountered by petitioners stem from the railroad's adoption of data processing procedures and consequent issuance of computerized freight bills. NTSB asserts that many of these railroads formerly supplied copies of waybills as freight bills. The waybill provided all data necessary to verify charges assessed. Petitioners suggest, however, that computerized freight bills do not contain the detailed information previously provided by a waybill copy. According to the NTSB, this results in unintended falsification and/or omission of facts rendering verification of charges difficult for the bill payer.

NTSB is a company engaged in the auditing of freight bills for shipper clients to determine whether the shippers have been overcharged. As an agent of shippers, NTSB does not have direct knowledge of its client's product lines or operations. Typically, it must rely for its information on freight bills received from its clients. Bills of lading to match with these freight bills may or may not be supplied by the client. The basic problem, therefore, is the petitioner's inability to obtain consistently from its clients bills of lading to supplement insufficient information found on freight bills.[1] The remedy, however, is not to burden carriers with additional regulation, but rather, for NTSB to secure all necessary information from its client shippers. Obviously, if NTSB is to perform the function for which the shipper is paying, it is in the shipper's interest and should be its responsibility to retain and provide pertinent materials.

Joseph, a shipper of scrap steel, supports the petition filed by NTSB. It points out that computerized billing often causes auditing problems, especially in the area of verifying weights. Joseph indicates that it has already asked railroads to attach copies of revenue waybills to assist it in auditing freight charges. We believe that this sort of shipper-carrier communication is the best means for solving Joseph's problems. Moreover, the bill payor should have bills of lading in its possession or be able to obtain them. These documents provide the necessary data.

Under the circumstances, we do not believe rules are necessary and will decline to exercise our discretion to propose them. Accordingly, the petition is denied.

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[1] This notice corrects the notice published at 46 FR 41221, August 14, 1981, which left AB-2 (Sub-No. 30F) out of the list of combined cases and incorrectly numbered AB-2 (Sub.No. 31F) as AB-2 (Sub-No. 30F).

[1] In its petition NTBS apparently recognizes this. On page 2, paragraph 5 NTSB asserts that "without a bill of lading, one cannot determine the correctness of charges."

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

(49 U.S.C. 10321, 10326, 5 U.S.C. 553)

Decided: September 9, 1981.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor. Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-27189 Filed 9-17-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-69 (Sub-9F)]

Western Maryland Railway Co.—Abandonment Between Bergoo and Webster Springs, W. Va.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision dated September 11, 1981, the Commission, Review Board Number 3, found that the public convenience and necessity requre or permit abandonment by Western Maryland Railway Company of its line of railroad known as Back Fork Branch between milepost 0.00 to the endof the line at milepost 1.00 at Webster Springs, Webster County, WV a total distance of 1 mile subject to the conditions for employee protection provided in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). A certificate of abandonment will be issued permitting the abandonment unless within 15 days from the date of this publication the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the issuance of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will be issued. Upon notification to the Commission of the execution of a subsidy or purchase agreement, the Commission shall further postpone the issuance of a certificate for such time as the agreement is in effect. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-27187 Filed 9-17-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistnace issued during the period September 7-11, 1981.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm of subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,368; Thunderline Corp., Wayne, MI

TA-W-10,449; Borg Warner Corp., Morse Chain Div., Ithaca, NY

TA-W-10,589; Alees Shake Mill, Taholah, WA

TA-W-10,693; J. S. Zulick and Co., Inc., Orwigsburg, PA

TA-W-10,897; Sinking Spring Foundry Co., Sinking Spring, PA

TA-W-11,860; Western Nuclear, Inc., Jeffrey City, WY

TA-W-11,501, 11,502, 11,503; Boris Smoler & Sons, Inc., La Porte, IN, Chicago, IL, and Elkhart, IN

TA-W-11,192 & 11,741; Asarco, Inc., Vanadium Mine, Vanadium, NM and Deming Mill, Deming, NW

TA-W-10,338; Waverly Sportswear, Inc., New York, NY

TA-W-11,829; Matco Allied Equipment Corp., Medina, OH

TA-W-11,907; Sweden Freezer Mfg. Co., Columbus, OH

TA-W-11,729; Waterboro Patent Corp., Waterboro, ME

TA-W-11,823 & 11,824; Amsted Industries, Inc., American Steel Foundries Div., Hammond, IN and East Chicago, IN

TA-W-11,333; Joslyn Mfg. & Supply Co., Joslyn Stainless Steels, Fort Wayne, IN

TA-W-11,205; Gerard Mills, Inc., Hazelton, PA

In each of the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,622; California Steel Co., Chicago, IL

TA-W-10,630; Bethlehem Steel Corp., Steelton, PA

TA-W-11,540; Bethlehem Steel Corp., Steelton, PA

TA-W-10,955; Westinghouse Electric Corp., Bloomfield, NJ

In each of the following cases the investigation revealed that criterion (3) has not been met for the reason(s) specified.

TA-W-10,357; Phillips Industries, Inc., Malta, OH

U.S. imports of wood windows are negligible.

TA-W-10,890; Chapper Iron Works, Detroit, MI

Aggregate U.S. imports of fabricated structural steel did not increase as required for certification.

TA-W-11,182; Crown Fabricators, Sterling Heights, MI

Aggregate U.S. imports of tractor cab enclosures and major vehicle body parts are negligible.

TA-W-11,696 & 11,812; Philips ECG, Inc. (formerly GTE Sylvania, Inc.), Emporium Receiving Tube Plant, Emporium, PA and Altoona Receiving Tube Plant, Altoona, PA

Aggregate U.S. imports of electronic receiving tubes did not increase as required for certification.

TA-W-10,898; Allied Chemical Corp., Solvay, NY

Aggregate U.S. imports of synthetic soda ash are negligible.

TA-W-11,043; A-OK Machining and Tool Co., Fraser, MI

Aggregate U.S. imports of jigs and fixtures and negligible.

TA-W-11,722; Americap, Inc., Seymour, CT

Aggregate U.S. imports of cloth caps did not increase as required for certification.

TA-W-10,718; Jim Walter Resources, Inc., Coke, Iron, and Chemical Div., Birmingham, AL

Imports of coke and mineral wool are negligible. Imports of pig iron declined in 1979 and the first 3 quarters of 1980. Employment of workers producing chemicals remained relatively stable in 1980 and increased in 1981.

In each of the following cases the investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-11,602; Parker Reynolds Chevrolet, Inc., North Olmstead, OH
TA-W-10,698; Chuck Ellis Pontiac-Buick-GMC, Inc., Batavia, NY
TA-W-11,883; Hartmen Lincoln Mercury, Inc., Oshkosh, WI
TA-W-10,507; Nichols Buick-Pontiac-GMC, Inc., Albion, MI
TA-W-11,654; Conyers Ford, Inc., Detroit, MI
TA-W-11,011; C. Miller Chevrolet, Inc., Willoughby, OH
TA-W-10,851; Falcon Products, Inc., St. Louis, MO
TA-W-10,904; Michael Chevrolet, Inc., Muskegon, MI

In the following case the investigation revealed that sales by manufacturers for which the subject firm produced under contract did not decline.

TA-W-11,877; Tom Holzer Ford, Inc., Farmington, MI

Affimative Determinations

TA-W-10,892; Ferry Cap and Set Screw Co., Cleveland, OH

A certification was issued covering all workers of the firm separated on or after December 1, 1979.

TA-W-10,534 & 12,733; Hyde Athletic Industries, Cambridge, MA and Spot-Bilt Factory, Bangor, ME

A certification was issued covering all workers of the Cambridge plant separated on or after August 1, 1980 and all workers of the Bangor, Maine plant separated on or after January 10, 1981.

TA-W-10,468; C. G. Conn., Limited, Abilene, TX

A certification was issued covering all workers of the firm separated on or after June 1, 1980 and before January 1, 1981.

I hereby certify that the aforementioned determinations were issued during the period September 7-11, 1981. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, Employment and Training Administration, 601 D Street, NW, Washington, D.C. 20213, during normal working hours or will be mailed to persons who write to the above address.

Dated: September 14, 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-27237 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-10,341]

White Farm Equipment Co., Charles City, Iowa; Negative Determination Regarding Application for Reconsideration

By an application dated July 16, 1981, the United Auto Workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing tractors at White Farm Equipment Company's plant in Charles City, Iowa. The determination was published in the Federal Register on July 7, 1981 (46 FR 35230).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered, or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims in its application for reconsideration that the Department should be consistent and certify at least the workers producing small tractors at White Farm Equipment since it certified workers producing small tractors at Massey Ferguson's tractor plant in Detroit, Michigan, TA-W-10,985. The union also contends that White Farm's imports of small tractors has adversely affected production and employment at White Farm's Charles City, Iowa plant. Finally, the union questions the adequacy of the Department's customer survey.

The Department's review revealed that the worker petition did not meet the increased import criterion or the "contributed importantly" test of the Trade Act of 1974. The majority of the tractors produced at Charles City are more than 80 horsepower. Aggregate U.S. imports of agricultural tractors equal to or greater than 80 horsepower decreased absolutely during the first nine months of 1980 compared to the same period in 1979. Sales, production and average employment increased at Charles City during 1979 compared to 1978 and in the first quarter of 1980 compared to the same quarter in 1979. The Department's survey of White Farm's retail dealers showed that most respondents did not import tractors of 40 horsepower or more during the period under investigation. Customers who reported reducing their purchases from White Farm in favor of imports during 1980 accounted for a small percentage of White Farm's sales decline.

The Department does not see the inconsistency to which the union alludes concerning the production of small tractors since production of tractors under 80 horsepower at Charles City accounted for only a small percentage of total production at that plant while workers at Massey Ferguson's plant in Detroit, Michigan produced mainly small tractors. Workers at Charles City were not separately identifiable by type of tractor produced. Further White Farm does not make tractors of less than 70 horsepower. Company imports from Italy were small and in the 50 to 60 horsepower range.

The Department notes that company imports of tractors from England occurred more than five years ago. However, such imports would not

provide a basis for certification of workers at White Farm since section 223(b)(1) does not permit certification for workers laid off more than one year prior to the date of the petition.

With respect to company imports of 30 and 35 horsepower tractors from Japan, the Department notes that it addresses this point in its initial denial. White Farm never manufactured tractors under 40 horsepower domestically since prior to 1970.

The Department did not survey White Farm's franchised dealers selling only White Farm tractors but surveyed retail dealers selling White Farm tractors as well as other brands. This survey revealed that import as well as domestic purchases of tractors were down in 1980 compared to 1979. Other factors dealing with the economy and White Farm's parent company markedly affected sales, production and employment at Charles City.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 10th day of September 1981.

Robert O. Deslongchamps,

Acting Deputy Administrator, Unemployment Insurance Service.

[FR Doc. 81-27253 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-81-37-M]

American Salt Co.; Petition for Modification of Application of Mandatory Safety Standard

American Salt Company, P.O. Box 498, Lyons, Kansas 67554 has filed a petition to modify the application of 30 CFR 57.19-124 (hoist ropes; requirements) to its American Salt Mine and Mill located in Rice County, Kansas. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that hoist ropes be cut off at least six feet above the highest connection to the conveyance at time intervals not to exceed one year unless a shorter time is required by 30 CFR 57.19-126 or conditions of use.

2. Petitioner states that it is hazardous for employees, using a crane, to pull the wire rope up and over the sheaves and lower the wire rope to the ground. When the ropes are laid on the ground, the possibility exists that dirt and other debris may be ingrained into the rope. The ropes may also be damaged by kinking.

3. As an alternative method, petitioner proposes to employ nondestructive testing on the wire rope and rope clips. The testing would reveal wire rope deterioration and broken wires. Testing will be done by an independent contractor and a copy of the results will be sent to MSHA, or an MSHA official may attend during the testing.

4. Petitioner states that the proposed alternative method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 19, 1981. Copies of the petition are available for inspection at that address.

Dated: September 10, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-27244 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-167-C]

Beckley Coal Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Beckley Coal Mining Company, P.O. Box 145, Glen Daniel, West Virginia 25844 has filed a petition to modify the application of 30 CFR 75.1714 (availability of approved self-rescue devices; instruction in use and location) to its Beckley Mine, located in Raleigh County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator shall make available to each miner employed by the operator who goes underground and to visitors authorized to enter the mine by the operator a self-rescue device or devices approved by the Secretary which is adequate to protect such person for one hour or longer.

2. Petitioner states that application of the standard would result in a diminution of safety for the miners affected because the passenger rating and the capacity requirements of the elevator do not allow for the carriage or storage of approved self-contained self-rescuers on the elevator during ascent or descent. No other practical means of storage of the approved SCSRs is available on the elevator. In addition, damage could occur to the individual units through handling and transportation.

3. As an alternative method, petitioner proposes to provide the miners with an approved sixty-minute filter type self-rescuer as they ascend or descend on the elevator. In support of this proposed alternative method, petitioner states that:

a. The elevator is located in the intake air shaft;

b. The time of ascent or descent in the elevator is seconds and all miners on the elevator would have the filter-type self-rescuer available.

4. The mantrip station is located immediately adjacent to the elevator entrance, or exit, and the petitioner requests approval to leave the approved SCSRs on the section mantrip station at the bottom of the elevator shaft.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 19, 1981. Copies of the petition are available for inspection at that address.

Dated: September 9, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-27242 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-36-M]

Butte Lode Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Butte Lode Mining Company, Butte Avenue, Randsburg, California 93555 has filed a petition to modify the application of 30 CFR 57.19-5 (clutch of

manhoist drum; locking mechanism) to its Butte Lode Mine located in Kern County, California. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the hoist be driven by a direct drive gear type of mechanism.

2. Petitioner requests a modification of the standard to allow a four ¾" C-type pulley belt drive to the electric motor of the 1905 Fairbank Morse hoist.

3. In support of this request, petitioner states that:

a. The belt drive will be satisfactory, safe and secure for man hoisting;

b. A manual interlock will be installed on the clutch;

c. All the cable was purchased new and placed on the hoist about six months ago;

d. There will be a drum-type variable speed control and a reversing unit manufactured by Westinghouse which will allow the operator to manage the unit with a hand control standing at the hoist brake control;

e. The hoisting unit has a very secure heavy-duty set of brakes; and

f. Parts are unavailable for this hoist and the modification proposed will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 19, 1981. Copies of the petition are available for inspection at that address.

Dated: September 9, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-27239 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-32-C]

Coal King Corp.; Petition for Modification of Application of Mandatory Safety Standard

Coal King Corportion, Box 247, Sophia, WV 25921 has filed a petition to modify the application of 30 CFR 75.1714 (availability of approved self-rescue devices; instruction in use and location) to its Bonnie Beth and Tarrah Leigh Mines located in Raleigh County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator shall make available to each miner employed by the operator who goes underground and to visitors authorized to enter the mine by the operator a self-rescue device or devices approved by the Secretary which is adequate to protect such person for one hour or longer.

2. As an alternative method, petitioner proposes to provide an operative emergency vehicle on the working section at all times miners are working such section. In addition, petitioner will provide double the amount of present self-rescuers and will test these self-rescuers at intervals not exceeding 30 days. Fire drills will be practiced every 30 days.

3. Petitioner states that this proposed alternative method will provide the same measure of protection for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 19, 1981. Copies of the petition are available for inspection at that address.

Dated: September 9, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-27238 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-140-C]

Kenellis Energies, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Kenellis Energies, Inc., P.O. Box 194, Harco, Illinois 6294 had filed a petition for modification of 30 CFR 75.1714 (availability of approved self-rescue devices; instruction in use and location) to its Bushy Creek Mine located in Saline County, Illinois. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator shall make available to each miner employed by the operator who goes underground and to visitors authorized to enter the mine by the operator a self-rescue device or devices approved by the Secretary which is adequate to protect such person for one hour or longer.

2. Petitioner states that application of the standard would result in a diminution of safety for the miners affected because:

a. The self-rescue devices would be exposed to extreme temperatures for extented periods of time due to the slope being on intake air direct from the outside. The manufacturer has specific maximum-minimum temperatures the unit can sustain without damage;

b. A hazard exists in transporting these units with people and would also diminish the man-trip capacity;

c. The self-rescuer units would add extra weight on the man-trip, and the man-trip would have to be redesigned or another car added to accommodate the units; and

d. The self-rescuer uses granulated KO_2 as the oxygen source. The slope man-trip travels approximately 7,560 miles per year. All this travel causes considerable amounts of vibration which could cause KO_2 granules to become powder.

3. As an alternative method which will provide the same or greater degree of safety for the miners affected as that afforded by the standard, petitioner proposed that:

a. Each miner will wear a filter type self-rescuer on his or her person at all times while traveling in the slope;

b. The same number of self-contained self-rescuers will be stored that would be on the slope transportation in the immediate bottom area of the mine approximately 300 feet from the slope man-trip loading and unloading station. These would be cached in a haulage transportation entry on neutral ventilation where the temperature is more constant, where all people must pass and within 150 feet of slope intake air.

c. The area will be well designated with signs.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health

Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 19, 1981. Copies of the petition are available for inspection at that address.

Dated: September 10, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-27245 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-161-C]

Milburn Colliery Co.; Petition for Modification of Application of Mandatory Safety Standard

Milburn Colliery Company, Burnwell, West Virginia 25034 has filed a petition to modify the application of 30 CFR 77.1605(k) (berms or guards) to its No. 4 Mine located in Fayette County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that berms or guards be installed on the mine's roadway.

2. The track and monitor system normally used to transport coal have broken down. While repairs are made, petitioner plans to install a temporary truck loading facility and plans to truck coal down the mine road using four trucks travelling two together.

3. Petitioner has been advised that the present one-foot high berm along the roadway is insufficient for the planned temporary truck haulage.

4. After a thorough investigation, petitioner has determined that increasing the berm's size will result in a diminution of safety for the mining personnel because:

a. The roadway will be disturbed, which has been stabilized for many years and will increase sedimentation and erosion, creating the danger of slides, ruts and holes in the roadway;

b. Increasing the berm's size will reduce the number of passing areas on the road, creating additional hazards of head-to-head traffic and congestion;

c. Increasing the berm's size will trap additional run-off water and permit freezing of this water in winter, creating hazardous driving conditions.

5. Petitioner further states that guards would not be effective because they would have to be built on fill material.

6. Petitioner proposes to use the mine road for truck haulage until repair of the track and monitor system. In support of this proposal petitioner states that the necessary safeguards will be followed to insure that safe operating procedures are followed on the roadway, including operator training, vehicle safety checks, roadway inspections and a posted traffic system.

7 For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 19, 1981. Copies of the petition are available for inspection at that address.

Dated: September 9, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81 27243 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-129-C]

Pyro Mining Co.; Petition for Modification of Application of Mandatory Safety Standards

Pyro Mining Company, P.O. Box 267, Sturgis, Kentucky 42459 has filed a petition to modify the application of 30 CFR 75.1714 (availability of approved self-rescue devices; instruction in use and location) to its Pyro No. 11 and Pride Mines located in Union County, Kentucky and its Wheatcroft and Pyro No. 6 Mines located in Webster County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator shall make available to each miner employed by the operator who goes underground and to visitors authorized to enter the mine by the operator a self-rescue device or devices approved by the Secretary which is adequate to protect such person for one hour or longer.

2. Petitioner states that application of the standard would result in a diminution of safety for the miners affected because most of the available self-contained self-rescuers weigh from seven to ten pounds and are large and bulky and would be in the miners' way when working or walking in a crouched position. In addition, wearing these rescuers would restrict movement and mobility if the miner should have to react suddenly in the event of an emergency; the devices would be cumbersome and present a possible tripping hazard when walking.

3. Because of the added weight to the miner, these rescuers would present a higher degree of back stress and strain, as well as inflicting bruises against the miner's body by the bouncing effects of walking and other movements. The weight and size of these rescuers present the potential of causing the miner to lose concentration of the surrounding mining conditions.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 19, 1981. Copies of the petition are available for inspection at that address.

Dated: September 9, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-27241 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-35-M]

Union Carbide Corp., Petition for Modification of Application of Mandatory Safety Standard

Union Carbide Corporation, Pine Creek Operations, Bishop, California 93514 has filed a petition to modify the requirements of 30 CFR 57.4-61A (installation of fire doors) to its Pine Creek Mine located in Inyo County, California. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that fire doors be installed at shaft stations.

2. The mine is accessed by three adits, located at the lower, middle and upper extremities of the mine. The three main shafts are used for normal transportation of miners and materials but are not an exclusive part of the

escapeway system; parallel routes exist.

3. Escape procedures provide for mine egress via one of the three adits.

Depending on location, any person underground can exit the mine via the closest portal without depending on any of the three main raises.

4. Many years of mining activity have resulted in many large, open stopes which interconnect to many levels and serve as an air path. Shaft doors would do little to control air flow because many alternate routes exist; doors at stations could worsen the problem of smoke distribution by diverting smoke from normal pathways through alternate airways and into areas affecting evacuation routes, possibly endangering personnel. Open stopes are effectively used as exhaust airways which aid ventilation by minimizing recirculation, but the balance could be damaged by doors at shaft stations.

5. As an alternative method, petitioner states that in the event of an internal mine fire:

a. The C-Level portal 200-hp fan will be reversed to intake and the 200-hp fan at the 90 fill raise would be changed to exhaust. This provides a fresh air base along the length of the C-Level drift and down the ramp system;

b. The exhaust fans on the 8100 Level would be reversed to intake and the 07 fan switched to exhaust;

c. The fan on the 1500 Level would be reversed which would ensure that no smoke is drawn into the mine through the intake fan.

6. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 19, 1981. Copies of the petition are available for inspection at that address.

Dated: September 9, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-27240 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 1-5 of Executive Order 12196 of February 26, 1980, published in the Federal Register February 27, 1980 (45 FR 12769), will meet on October 7, 1981 starting at 10:00 AM in Rooms N5437 A, B, C, of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Call to Order
II. Presentation of FACOSH Appointees
III. Approval of Minutes of August 4, 1981 Meeting.
IV. Presentation—Federal Emphasis Program on Seat Belts
V. FACOSH Comments:
  1. Proposed Policy
  2. A Plan for the Federal Government to Save
VI. Committee Reports:
  A. Standing Committee on Federal Safety and Health Conferences
  1. Progress Report—Atlanta Conference
VII. New Business
VIII. Adjournment

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business October 2, 1981, will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business October 2, 1981. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to Richard P. Wilson, Acting Director, Office of Federal Agency Programs, Department of Labor, OSHA, Bicentennial Building, 600 E Street, N.W., Suit 500, Washington, D.C. 20210, telephone (202) 376-3005.

Signed at Washington, D.C. this 16th day of September, 1981.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 81-27305 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-26-M

National Advisory Committee on Occupational Safety and Health; Appointment of Members

Notice is hereby given that appointments have been made to fill the vacancies on the National Advisory Committee on Occupational Safety and Health (NACOSH) created by the expiration of the terms of six members on June 30, 1981.

New members appointed to the Committee are: Ms. Joyce Hearn, Public Representative; Dr. Bruce Karrh, Management Representative; Mr. B. Gawain Bonner, Safety Representative; Dr. Richard P. Miethke, Health Representative.

Members reappointed to the Committee are: Dr. Marcus M. Key, Health Representative; Mr. George H. R. Taylor, Labor Representative.

The members were selected on the basis of their experience and competence in the field of occupational safety and health.

The full membership of the Committee and the categories represented are now as follows:

Public

Dr. Nicholas A. Ashford, Assistant Director, Center for Policy Alternatives, Building E40-250, Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139;

Dr. Richard E. Ginnold, OSHA Coordinator Labor Education and Research Center, PLC 154, Eugene, OR 97403;

Representative Joyce C. Hearn, State of South Carolina, 1316 Berkeley Road, Columbia, SC 29205;

Carol Oppenheimer, Antioch Law School, 2633 16th Street, NW, Washington, DC 20009.

Management

Dr. Bruce W. Karrh, Medical Director, E.I. du Pont de Nemours and Co., Inc., Medical Division, N-11400, Wilmington, DE 19898;

Dr. Peter J. Nord, President, Schauer Manufacturing Corporation, 4500 Alpine Avenue, Cincinnati, OH 45242.

Labor

John J. Sheehan, Legislative Director, United Steelworkers of America, Suite

706, 815 Sixteenth Street, NW, Washington, DC 20006;
George H. R. Taylor, Director, Department of Occupational Safety and Health, AFL–CIO, 815 Sixteenth Street, NW, Washington, DC 20006.

Safety

Mr. B. Gawain Bonner, Director, Loss Control, Tenneco, Inc., Tenneco Building, P.O. Box 2511, Houston, TX 77001;
Dr. Thomas H. Rockwell, Professor of Industrial and Systems Engineering, Ohio State University, Columbus, OH 43220.

Health

Dr. Marcus M. Key, Professor of Occupational Medicine, School of Public Health, Rm N–210, The University of Texas Health, Science Center, P.O. Box 20186, Houston, TX 77025;
Dr. Richard P. Miethke, Medical Director, Delco Electronic Division, GMC, 700 East Firmin Street, Kokomo, IN 46902.

The newly appointed members will serve two year terms expiring on June 30, 1983. The remaining members are serving the second year of a two year term ending on June 30, 1982.

The National Advisory Committee was established under Section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act.

For additional information contact: Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, 200 Constitution Avenue, Northwest, Rm N–3635, Washington, DC 20210, Telephone: (202) 523–8024.

Signed at Washington, D.C. this 11th day of September 1981.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 81–27252 Filed 9–17–81; 8:45 am]
BILLING CODE 4510–26–M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 81–79; Exemption Application No. D–2374

Exemption From the Prohibitions for Certain Transactions; Involving the Paul J. Ashkenaz and Richard A. Gilbert, Endodontics, Ltd. Profit Sharing Plan, Located in Chicago, Illinois

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would permit the loan of $35,000 by the Paul J. Ashkenaz and Richard A. Gilbert, Endodontics, Ltd. Profit Sharing Plan (the Plan) to Paul J. Ashkenaz and Richard A. Gilbert, Endodontics, Ltd. (the Employer).

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 6, 1981, notice was published in the Federal Register (46 FR 34883) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the transaction described in an application filed on behalf of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan of $35,000 by the Plan to the Employer, provided that the terms of the loan are at least as favorable to the Plan as those available in an arm's length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 11th day of September 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-27263 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-74 Exemption Application No. D-2150]

Exemption From the Prohibitions for Certain Transactions, Involving the Carpenters Pension Trust for Southern California, Located in Los Angeles, California

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of a piece of improved real property (the Rose Hills property) from the Carpenters Pension Trust for Southern California (the Trust) to the Los Angeles County District Council of Carpenters (the District Council), an employee organization some of whose members are participants in the Trust.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Office of Fiduciary Standards, Pension and Welare Benefit Programs, Room C-4526, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8671. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 30, 1981, notice was published in the Federal Register (46 FR 33683) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that a copy of the notice was furnished by July 15, 1981, to interested persons in compliance with the requirements set forth in the notice of proposed exemption. No public comments were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c) (1) (E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Trust and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Trust.

Accordingly the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the proposed sale of the Rose Hills property by the Trust to the District Council for $1,428,000, provided that that amount is not less than fair market value at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 11th day of September 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-27258 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-80; Exemption Application No. D-2405]

Exemption From the Prohibitions for Certain Transactions Involving the Citizens Bank Employees' Stock Bonus Plan, Located in Bloomsbury, New Jersey

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale on March 22, 1978, of two mortgages by the Citizens Bank Employees' Stock Bonus Plan (the Plan) to Citizens Bank, N.A. (the Employer), a party in interest with respect to the Plan.

EFFECTIVE DATE: This exemption is effective March 22, 1978.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Office of

Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216; (202) 523-8671. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 26, 1981, notice was published in the Federal Register (46 FR 33137) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above mentioned transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been furnished to interested persons in compliance with the requirements set forth in the notice of proposed exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401 (a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale on March 22, 1978, of the two mortgages described in the notice of proposed exemption by the Plan to the Employer, provided that the amount the Plan received for each mortgage was not less than its fair market value on that date.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 11th day of September 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-27264 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-81; Exemption Application No. D-2535]

Exemption From the Prohibitions for Certain Transactions; Involving the Fazio, Dawson & Thompson, P.A. Money Purchase Pension Plan and Trust, Located in Fort Lauderdale, Fla.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the sale by the Fazio, Dawson & Thompson, P.A. Money Purchase Pension Plan (the Plan) of two parcels of property to D. Fredrico Fazio (the Trustee), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 6, 1981, notice was published in the Federal Register (46 FR 34865) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b) (1) and (b) (2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed on behalf of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied

with the notice to interested persons requirement as set for the in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan of two parcels of property (the Properties), one located on the Southwest corner of S.E. 8th Street and S.E. 2nd Avenue, in Ft. Lauderdale, Florida and the other located on the Northeast corner of S.E. 9th Street and S.E. 2nd Avenue, in Ft. Lauderdale, Florida, to the Trustee for $90,000 and $64,000 respectively, provided that these amounts are at least the fair market value of the Properties on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 11th day of September, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-27285 Filed 9-17-81; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-75; Exemption Application No. D-2204]

Exemption From the Prohibitions for Certain Transactions; Lloyd's Bank California, Located in Los Angeles, California

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the use of assets of employee benefit trusts (Trusts), for which Lloyds Bank California (the Bank) serves as corporate co-trustee, for permanent loans to persons who will use the loan proceeds to pay off construction loans originated by the Bank.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 24, 1981, notice was published in the Federal Register (46 FR 38178) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (D) of the Code, for the above described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. No public comments were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an

exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Trusts and their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Trusts.

Accordingly the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the use of assets of the Trusts for permanent mortgage loans to the Borrowers, who will use the loan proceeds to pay off construction loans originated by the Bank.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 11th day of September, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-27259 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-76; Exemption Application No. D-2207]

Exemption From the Prohibitions for Certain Transactions; Involving the William S. McAfee, M.D., Inc. Revised Profit Sharing Plan and Trust, Located in Monterey, California

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would exempt the cash sale of an interest in a parcel of unimproved real property by the William S. McAfee, M.D., Inc. Revised Profit Sharing Plan and Trust (the Plan) to William S. McAfee, M.D. (Dr. McAfee), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 6, 1981, notice was published in the Federal Register (46 FR 34869) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the transaction described in an application filed by legal counsel for the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale for $106,249 by the Plan to Dr. McAfee of a 67.14% interest in one-half of a parcel of unimproved real property located at 966 Cass Street, Monterey, California, provided that this amount is not less than the fair market value at the time of sale.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 11th day of September, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-27260 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-77; Exemption Application No. D-2347]

Exemption From the Prohibitions for Certain Transactions Involving Marr, Knapp & Crawfis Associates, Inc. Profit Sharing Trust, Located in New Philadelphia, Ohio

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would exempt the sale by the Marr, Knapp & Crawfis Associates, Inc. Profit Sharing Trust (the Plan) of a parcel of unimproved real property to a partnership (the Partnership) which is comprised of individuals who are members of Marr, Knapp & Crawfis Associates, Inc. (the Employer), the professional corporation which sponsors the Plan.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 6, 1981, notice was published in the Federal Register (46 FR 34868) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the transaction described in an application filed by legal counsel for the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan to the Partnership of a 1.048 acre tract of property located on Wabash Avenue, in New Philadelphia, Ohio, provided the price paid is no less than the fair market value of the property at the date of sale.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 11th day of September, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-27261 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-78; Exemption Application No. D-2373]

Exemption From the Prohibitions for Certain Transactions; Involving Volkmuth Printers, Inc., Profit Sharing Plan, Located in St. Cloud, Minn.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would exempt the cash sale of 7.47 acres of real property (Parcel No. 1) by the Volkmuth Printers, Inc. Profit Sharing Plan (the Plan) to the Volkmuth Printers, Inc. (the Employer) and the proposed cash sale of 10.48 acres of real property (Parcel No. 2) by the Plan to the Employer.

EFFECTIVE DATE: The exemption will be effective October 12, 1981 for the sale of Parcel No. 1 and effective with the date of grant for Parcel No. 2.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 10, 1981, notice was published in the Federal Register (46 FR 35820) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406 (a) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (e) of the Code, for the transactions described in an application filed by legal counsel for the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary of other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406 (a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of Parcel No. 1 by the Plan to the Employer for $56,025, provided that this amount was not less than the fair market value at the time of sale, or to the proposed cash sale of Parcel No.2 by the Plan to the Employer of $99,560, provided that this amount is not les than the fair market value at the time of the sale.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washinton, D.C., this 11th day of September, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services, Administration, Department of Labor.

[FR Doc. 81-27202 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-71; Exemption Application No. D-1685]

Exemption From the Prohibitions for Certain Transactions Involving the Pension Plan for Employees of Straub Clinic and Hospital, Inc., Located in Honolulu, Hawaii

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the prospective ground lease of certain real estate by the Pension Plan for Employees of Straub Clinic and Hospital, Inc. (the Plan) to the Straub Clinic and Hospital, Inc. (the Clinic), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-6915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 2, 1981, notice was published in the Federal Register (46 FR 29566) of the

pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b) (1) and (b) (2) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c) (1) (A) through (E) of the Code, for the above described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was distributed to interested persons in accordance with the requirements set forth in the notice. No public comments and no requests for a hearing were received by the Department.

The applicant has requested a clarification of certain information contained in paragraphs six and eight of the Summary of Facts and Representations. The notice indicated that the improvement to the Real Estate was a three story wing (the Addition) to be added to the Clinic's existing complex. The applicant seeks to correct an erroneous factual representation by requesting the Department to restate a portion of item 6 of the Facts and Representations beginning with the second sentence. In relevant part Item 6 should be read as follows:

* * * The Clinic now seeks to renegotiate the lease (the Renegotiated lease) as part of its agreement with NYLC for a permanent loan to repay an interim construction loan from the Bank of Hawaii in the amount of $10.5 million borrowed for the purpose of (a) adding a fourth level to a three level garage on the Real Estate (the Garage) and (b) adding a three story wing to the Clinic's existing complex, which is located on land owned by the Straub Partnership * * *

Based on this revision, subsequent references in the notice to the "Addition" should be read as the "Garage". Additionally, the third and fourth sentences of item 8 should be modified to reflect that the value of the Plan's interest in the Real Estate must reflect the encumbrance of the Lease. Therefore, in relevant part, item 8 should be read as follows:

* * * The Real Estate was subsequently valued (with the encumbrance of the Lease) at $843,000 on December 30, 1979 for purposes of the Plan's annual report filing. As of this valuation date, the Real Estate represents twenty-seven (27) percent of Plan assets.

The Department has determined that these modifications do not materially affect the transaction as proposed, were fully disclosed to participants and beneficiaries of the Plan through the Notice to Interested Persons procedure and were known to the independent fiduciary at the time the proposed transaction was reviewed and the determination made that the transaction was in the best interest of the Plan and its participants and beneficiaries. Therefore, the Department has decided to grant this exemption as proposed.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the Renegotiated Lease of the Real Estate located on South King Street in Honolulu, Hawaii by the Plan to the Clinic as set forth in the application for exemption, provided that the terms and conditions of the lease arrangement remain as favorable to the Plan as would otherwise be available with an unrelated third party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 11th day of September 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-27255 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-72; Exemption Application No. D-1814]

Exemption From the Prohibitions for Certain Transactions; Involving the Norris, McLaughlin & Marcus, P.A. Profit Sharing Plan Located in Somerville, New Jersey

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits (1) a loan of $23,790 by Norris, McLaughlin & Marcus, P.A. Profit Sharing Plan (the Plan) to Norris, McLaughlin & Marcus, P.A. (the Employer), a party in interest with respect to the Plan; and (2) the personal guarantees of the Employer's obligations pursuant to the loan by eight shareholders of the Employer.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 24, 1981, notice was published in the Federal Register (46 FR 38183) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was provided to interested persons in accordance with the requirements set forth in the notice. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 406(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the loan of $23,790 (the Loan) by the Plan to the Employer provided that the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated third party; and (2) the personal guarantees of the Employer's obligations with respect to the Loan by eight shareholders of the Employer.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 11th day of September, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-27256 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-73; Exemption Application No. D-1962]

Exemption From the Prohibitions for Certain Transactions; Involving the Schwarz Foundry Company Profit Sharing Plan and Trust, Located in Detroit, Michigan

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits, for a period of five years, the loan (the Loan) of money by the Schwarz Foundry Company Profit Sharing Plan and Trust (the Plan) to Schwarz Foundry Company (the Employer), the sponsor of the Plan.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 6, 1981, notice was published in the Federal Register (46 FR 34873) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed by the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for

a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notification to intersted persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of wether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the Loan of $150,000 by the Plan to the Employer for a term of five years provided that the terms of the Loan are at least as favorable to the Plan as the Plan could obtain in a transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 11th day of September, 1981

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-27257 Filed 9-17-81; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-2660]

Proposed Exemption for Certain Transactions Involving the Employees' Profit Sharing Plan of Downey Savings & Loan Association Located in Costa Mesa, California

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed contribution of 16 promissory notes, secured by first deeds of trust on improved real property, to the Employees' Profit Sharing Plan of Downey Savings & Loan Association (the Plan) by Downey Savings & Loan Association (the Employer). The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Employer, the makers of the notes, and the trustee of the Plan, Title Insurance and Trust Company (the Trustee).

DATE: Written comments and requests for a public hearing must be received by the Department on or before November 9, 1981.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective on or about September 15, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-2660. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan covers employees of the Employer and other corporations associated with the Employer. Approximately 274 employees participated in the Plan as of December 31, 1980. As of December 31, 1979, the Plan's assets totalled $659,891. All assets of the Plan, as of March 12, 1981, were invested in a pooled trust fund of cash equivalent securities held by the Trustee.

2. Section 3.1(a) of the Plan provides for employer contributions from each participating employer's current or accumulated adjusted net profits in such amount as may be determined at the discretion of such employer's board of directors, not to exceed specified limits. Section 5.02(a) of the trust agreement established to fund the Plan permits the Trustee to invest Plan assets in mortgages, among other investments. Although the terms of the trust agreement generally give the Trustee exclusive discretion to manage and control the assets of the Plan, section 7.5(c) of the Plan document and sections 3.01(c) and 5.01(a) of the Trust agreement permit an administrative committee appointed by the Employer to direct the Trustee to acquire or dispose of particular assets. However, the Employer proposes to amend these sections of the Plan document and the trust agreement, subject to the granting of this proposed exemption, to provide that such directions by the administrative committee shall not apply to promissory notes contributed to the Plan by a participating employer and to certain specified securities.

3. The Employer is a savings and loan association chartered to act as such under the laws of the State of California. The Employer has made regular contributions to the Plan since its inception. The Employer wishes to continue making contributions to the Plan but its ability to do so is currently being hampered because high interest rates and the downturn in the housing market in California have reduced the Employer's profits. On December 17, 1980, the board of directors of the Employer resolved to contribute to the Plan for 1980 dividends made by Rancho Insurance Agency through the Rancho Stock Trust (the Rancho Dividends) and first deeds of trust wholly owned by the Employer in a "face sum" equal to ten percent of the participants' compensation for 1980 less the amount of such dividends. It is represented that the Rancho Dividends are cash dividends on stock held in a revocable trust created by the Employer, which includes the dividends in its gross income for Federal income tax purposes. Said trust agreement provides that the Rancho Dividends are payable to the Plan. The directors further resolved that the Employer shall not contribute the first trust deeds to the Plan for 1980 if the Department does not grant an exemption for the proposed contribution. The Employer intends to make this contribution on or before September 15, 1981, because the Employer's Federal income tax return for 1980 is due by that date. As the participants' compensation for 1980 amounted to $4,178,769.88, the proposed contribution to the Plan for 1980 will be $417,877, consisting of 16 promissory notes secured by first deeds of trust on improved real property and the Rancho Dividends. It is represented that the "face sum" of the 16 notes which the Employer proposes to contribute to the Plan is the sum of their remaining principal balances, which totalled $300,303.63 as of June 3, 1981, and that the balance of the contribution required by the board of directors' resolution (i.e., the Rancho Dividends) has already been paid to the Plan.

4. The notes were made between the years 1964 and 1967 and mature between February 1988 and January 1998. None of the borrowers are parties in interest with respect to the Plan. Each note provides for monthly payments of principal and interest at a rate of either 6 or 6¼ percent per year. None of the notes are in default. The ratios of the present unpaid principal balance of each note to the appraised value of the real property securing the loan when the note was made range from 25 to 61 percent. The real property securing each loan is insured for fire and casualty loss in an amount sufficient to cover the amount of the related first deed of trust. Each such first deed of trust provides that the real property securing the loan shall be held by the Trustee in trust, with power of sale, until the loan is fully repaid, when the Trustee will reconvey the real property to the borrower. Each such deed of trust is presently recorded in official records of either Orange County or Los Angeles County, California. Upon contribution to the Plan, the notes and trust deeds will be recorded in accordance with normally accepted procedures in order to secure the Plan's lien on the properties involved. The Employer had previously transferred some of the subject notes to the Federal Home Loan Bank of San Francisco to be held in a Government National Mortgage Association (GNMA) pool. When the proposed contribution of the notes actually takes place, the Employer will repurchase these notes from the GNMA pool so that they may be contributed to the Plan. All 16 notes will then be physically transferred by the Employer to the Plan by hand delivery to the Trustee on or about September 15, 1981. The Employer will record a written assignment to the Plan of the Employer's beneficial interest under the notes.

5. To eliminate risk to the Plan, the Employer will hold the Plan harmless, for two years from the date the notes are contributed, from any liabilities arising from or relating to the notes, other than losses arising from default or changes in the market rate of interest. Although it is anticipated that the Plan will hold the notes for investment purposes, the Trustee will be able to sell them at any time and will be under no obligation to continue to hold them if future circumstances warrant disposing of them. The Trustee will service the notes and collect all payments. The Employer will pay all expenses incurred in transferring the notes to the Plan. The Employer believes that the expenses incurred in selling the notes to independent third parties and contributing the cash proceeds to the Plan would reduce the proceeds below the value of the notes proposed to be contributed in kind to the Plan.

6. Mr. Benjamin S. Ashley, an independent appraiser, states that he believes the deeds of trust in question should sell and be valued at a discounted 40 percent of the present principal balance. Mr. Ashley has determined that the fair market value of the 16 notes to be contributed to the Plan totals $180,182.17 as of June 3, 1981.

7. The Trustee states that it is not affiliated in any way with the Employer. The Trustee also states that it believes the proposed contribution is in the best interest of Plan participants and beneficiaries. The Trustee believes that the yield-to-value ratio, based on the notes' current fair market value, equals current rates.

8. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria contained in section 408(a) of the Act because (a)

the contribution would be a one-time transaction; (b) the fair market value of the notes has been determined by an independent appraiser; (c) if the notes are not contributed, the Plan will receive only the Rancho Dividends for 1980; (d) the Employer will pay any costs incurred in the proposed transaction; (e) each note is secured by a first deed of trust on improved real property which will be held by the Trustee, with power of sale, until the note is repaid in full; and (f) the Trustee has determined that the proposed transaction is in the best interests of the Plan's participants and beneficiaries.

Notice to Interested Persons

Within 15 days of the date this notice of proposed exemption is published in the **Federal Register**, the applicant will notify all interested persons of the pendency of this application for exemption. The notice will be mailed or delivered to all present plan participants, beneficiaries, and former employees with vested interests in the Plan, and will be posted on appropriate employee bulletin boards. The notice will contain a copy of the notice published in the **Federal Register** and will inform interested persons of their rights to comment and/or request that a hearing be held with respect to the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and repesentations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed contribution of 16 promissory notes, secured by first deeds of trust on improved real property, to the Plan by the Employer provided such contribution is valued at its fair market value.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this proposed exemption.

Signed at Washington, D.C., this 14th day of September, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-27266 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Tansaction Exemption 81-82; Exemption Application No. D-780]

Class Exemption for Guaranteed Contract Separate Accounts

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Class Exemption.

SUMMARY: This document contains a final class exeption for certain transactions involving separate accounts maintained by life insurance companies in connection with contracts under which the life insurance company either: (1) guarantees repayment of amounts deposited with it by an employee pension benefit plan, together with accrued interest, on a fixed date, or (2) guarantees payment of a fixed annuity. In the absence of the exemption, these transactions might be prohibited by sections 406(a) and 407 of the Employee Retirement Income Security Act of 1974 (ERISA, or the Act) and might result in the imposition of taxes under sections 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) with respect to certain transactions described in sections 4975(c)(1)(A) through (D) of the Code.[1] The class exemption will affect life insurance companies, employee pension benefit plans, participants and beneficiaries of such plans, and parties in interest and fiduciaries with respect to such plans.

DATE: The exemption is effective January 1, 1975.

FOR FURTHER INFORMATION CONTACT: William A. Schmidt, Plan benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C., 20216. Telephone (202) 523-9592. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On August 1, 1980, (45 FR 51303) the Department of Labor (the Department) published a notice of the pendency before it of a proposed class exemption

[1] As discussed below, the Department is publishing elsewhere in this issue of the FEDERAL REGISTER a proposed class exemption that would provide relief from the restrictions of 406(b) of ERISA, as well as relief from the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(E) and (F) thereof, for certain transactions involving separate accounts of the kind described above.

from the restrictions of sections 406 and 407 of ERISA and the taxes imposed by sections 4975(a) and (b) of the code for certain transactions involving insurance company separate accounts that are maintained by the insurance company in connection with contracts under which it guarantees repayment of amounts deposited with it by an employee benefit plan, together with accrued interest at a stated rate. These contracts are referred to in this notice as "guaranteed investment contracts." [2] That exemption was proposed in response to an application filed with the Department and with the Internal Revenue Service by Aetna Like Insurance Company, the Equitable Life Assurance Society of the United States and The Prudential Insurance Company of America. [3] The notice of proposed exemption set forth a summary of the facts and representations contained in the application, and referred interested persons to the application for a complete statement of facts and representations. The application has been available for public inspection at the Department in Washington, D.C.

Public comments and a request for a hearing with regard to the proposed class exemption were received pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Notice of a public hearing was published on November 14, 1980 (45 FR 75365), and the public hearing was held on December 8, 1980. On May 19, 1981, witnesses who appeared at the public hearing made an additional submission which amplified certain testimony.

Upon consideration of the written comments received and the testimony given at the public hearing, the Department has decided to grant a portion of the proposed exemption in an expanded form. In addition, as discussed below, the Department is also publishing in the **Federal Register** today a proposed class exemption that would provide significantly broader relief from the restrictions of section 406(b) of ERISA than would have been provided by the proposed exemption.[4]

[2] This notice also refers to "guaranteed contracts;" that term includes guaranteed investment contracts and certain fixed annuity contracts that are described below.

[3] Exemption application D–780. Although this application was filed with both the Department and the Internal Revenue Service, the notice of pendency was issued, and the exemption is being granted, solely by the Department because effective December 31, 1978, section 102 of Reorganization Plan Number 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue this type of exemption to the Secretary of Labor.

[4] In the discussion of the exemption, references to the various provisions of section 406 of ERISA should be read to refer as well to the corresponding provisions of section 4975 of the Code.

Discussion

The Department received three comments regarding the proposed exemption, and two witnesses testified at the public hearing. In response to these comments, the Department is adopting a final exemption that would provide unconditional relief from the restrictions of section 406(a) of ERISA for transactions involving assets held by an insurance company in a "guaranteed contract separate account" of the kind described in the exemption. In addition, the Department has also decided that it may be appropriate to provide broad relief with respect to such transactions from the restrictions on fiduciary conduct that are set forth in section 406(b) of ERISA. Although the proposed exemption provided notice to interested persons that the Department contemplated providing broad relief from section 406(a) of ERISA, the proposal provided much narrower relief from section 406(b). Therefore, the proposed exemption may not have given interested persons adequate notice that a broad exemption from section 406(b) might be issued, and may not have provided such persons with a sufficient opportunity to request a hearing or to present their views on the issues involved in such an exemption. Accordingly, the Department is publishing a separate proposed exemption that would provide relief from the fiduciary restrictions of section 406(b) of ERISA for transactions involving guaranteed contract separate accounts.

The comments received, and the Department's reasons for modifying the proposed exemption in response to those comments, are discussed below.

I. Status of Assets held by an Insurance Company Under a Guaranteed Contract Separate Account

As noted in the preamble to the proposed exemption, section 401(b)(2) of ERISA provides that if an insurance company issues a "guaranteed benefit policy" to an employee benefit plan, the assets of the plan are deemed to include the policy, but do not, solely by reason of the issuance of such policy, include any of the assets of the insurance company. In ERISA Interpretive Bulletin 75–2,[5] the Department stated that if an insurance company issues a contract or policy of insurance to a plan and places the consideration for such contract or policy in its general asset, account, the assets in such account shall not be considered to be plan assets. However, in defining the term guaranteed benefit policy,[6] Congress specifically excluded amounts held by an insurance company in a separate account, and the Department has expressed its view that assets held in a separate account of an insurance company to support obligations under contracts purchased by employee benefit plans are plan assets.[7]

[5] 29 CFR 2509.75–2.

The applicants for the exemption, together with two other insurance companies and the American Council of Life Insurance (collectively referred to in this notice as the "companies") urged the Department to issue an opinion that assets held in a "guaranteed investment contract separate account" of the kind described in the proposed exemption are not plan assets because such separate accounts differ in many respects from conventional separate accounts.

According to the companies, the guaranteed investment contracts that were described in the exemption application have three essential characteristics: (1) the insurance company guarantees that on the date or dates set forth in the contract the company will repay to the contract-holder the amount deposited under the contract plus accrued interest; (2) interest is accrued and credited under the contract at a fixed rate set forth in the contract; and, (3) the guarantee of repayment of principal and the stated interest are fixed, and do not vary with the investment performance of any assets held by the insurance company. These features of the contracts are the same, the companies stated, whether the deposited funds are allocated to the insurance company's general account or to a separate account that is maintained in connection with such contracts.

The companies also noted that insurance companies have different reasons for establishing separate accounts in connection with guaranteed investment contracts. For example, in some cases the investments in which the insurance company's general assets are

[6] The definition of "guaranteed benefit policy" in section 401(b)(2)(B) reads as follows:

(B) The term "guaranteed benefit policy" means an insurance policy or contract to the extent that such policy or contract provides for benefits the amount of which is guaranteed by the insurer. Such term includes any surplus in a separate account, but excludes any other portion of a separate account.

[7] Notice of Proposed Exemption (42 FR 54866, October 11, 1977), subsequently adopted as Prohibited Transaction Exemption 78–19 (43 FR 59915, December 22, 1978); *see also*, 29 CFR 2509.75–2.

held may not provide sufficient assurance to a company that its cash flow from investments will comport with its obligations to make payments under its guaranteed investment contracts, but, by using a separate account, the insurance company can make investments that will permit the company to collect interest and principal payments at times and in amounts that are more consistent with its guaranteed payment obligations. In addition, since an insurance company's general account investments frequently include common stocks and equity interests in real estate which, under accounting standards prescribed by state regulation, may limit the calculated yield of the general account of some insurance companies, use of a separate account may affect the guaranteed interest rates that the company is able to offer plans.

The companies asserted that assets held by an insurance company in a separate account maintained in connection with a guaranteed investment contract should not be considered plan assets because the contracts are "guaranteed benefit contracts" described in section 401(b)(2)(B) of ERISA. In this respect, the companies noted that, although it might be argued that section 401(b)(2)(B) excludes the assets of all separate accounts from those supporting a "guaranteed benefit policy," the Conference Report accompanying ERISA indicates that separate accounts were excluded because they are separately managed and the insurance company's payments generally are based on the investment performance of the assets held in the separate account.[8] Therefore, the companies stated, it would be inconsistent with the policy underlying section 401(b)(2) not to treat guaranteed investment contracts as "guaranteed benefit policies" regardless of whether they involve a separate account.

The companies also asserted that it would be consistent with the Department's proposed regulation regarding the definition of plan assets for the Department to conclude that monies held by an insurance company under a guaranteed investment contract are not plan assets.[9]

In the preamble to its proposed regulations dealing with the definition of plan assets, the Department emphasized that, with respect to a plan's investment in a wide variety of pooled investment vehicles, the plan is, as a practical matter, retaining the management of that investment vehicle to manage the plan assets that are invested in the fund, and that it appears consistent with the intent of Congress to treat the assets of such a pooled investment vehicle as plan assets.[10] However, as discussed above, the companies stated that the amounts payable, or credited to, a plan under guaranteed investment contracts are fixed and are not affected in any way by the investment performance of assets in any separate account in which monies received by the insurance company are held. Therefore, there are differences between a separate account maintained in connection with guaranteed investment contracts and other pooled separate accounts (where the value of the plan's investment is directly related to the investment management activities of the insurance company) which may be relevant to a determination whether the underlying assets of such an account are "plan assets." However, the specific exclusion of insurance company separate accounts in section 401(b)(2) of ERISA in connection with the definition of "guaranteed benefit policy" implies that assets of all separate accounts in which employee benefit plans invest should be considered plan assets.[11]

In light of the above factors, the Department has concluded that it would be more appropriate to resolve the question of whether assets held by an insurance company in a guaranteed investment contract separate account are "plan assets" in the context of the Department's pending proposed regulation dealing with the definition of that term, and has therefore decided not to issue the ruling requested by the companies. However, as discussed more fully below, many of the characteristics of guaranteed investment contract separate accounts that were discussed by the companies in connection with the question whether assets held in such a separate account are plan assets have been important to the Department's decision to expand the scope of the exemption for transactions involving such separate accounts.

II. Market Value Adjustments

One commentator urged that the Department make certain changes to the proposed exemption to provide additional safeguards in cases where a plan enters into an insurance company contract that provides a guaranteed rate of interest, but withdraws the monies deposited with the company before the stated maturity date. This commentator referred to a case where a plan, when it withdrew amounts deposited with the insurance company, was required to choose either a lump sum payment of the amount deposited less a "market value transfer charge" equal to 25.8% of the assets held, or to accept a gradual transfer of such assets over a five-year period, during which interest at the rate of 4% per year would be paid on the assets not yet transferred. It was not clear whether the amounts deposited were held in a separate account or commingled with the insurance company's general assets.

The commentator noted that the summary of the application contained in the preamble to the proposed exemption stated that the contracts described by the applicants provide for a "market value adjustment" in some circumstances, and this reference lends an appearance of Department approbation of the practice. Therefore, the commentator suggested, the Department should either delete the reference or state that approval of the practice is not intended.

In addition, the commentator suggested three specific conditions to the proposed exemption that would provide for disclosure of certain information regarding market value adjustments and place certain limitations on the terms of contracts described in the exemption.

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[8] H.R. Rep. No. 1280, 93rd Cong., 2d Sess., 296-7 (1974).

[9] Proposed 29 CFR 2550.401b-1 (44 FR 50363, August 28, 1979, and 45 FR 38084, June 6, 1980). Paragraph (a) of the proposed regulation provides, as a general rule, that plan assets include any property in which a plan has a beneficial ownership interest, and the companies asserted that monies held in a guaranteed contract separate account would not constitute "plan assets" under that rule because, when an insurance company issues a guaranteed investment contract that involves a separate account, the plan does not obtain a beneficial ownership interest in the assets of the account.

[10] 44 FR at 50364.

[11] Although, as the applicants pointed out, the Conference Report accompanying ERISA indicates that the primary reason for the special treatment given assets held in a separate account was that the investment performance of the separate account affects the amount payable to plans that participate in the account, it is not clear that this was the exclusive concern of the conferees. In this regard, the Conference Report explanation of the treatment of insurance company separate accounts is as follows:

> Additionally, it is understood that assets placed in a separate account managed by an insurance company are separately managed and the insurance company's payments *generally* are based on the investment performance of these particular assets. Consequently, insurance companies are to be responsible under the general fiduciary rules with respect to assets held under separate account contracts, and the assets of these contracts are to be considered as plan assets (but need not be held in trust). However, to the extent that insurance companies place some of their own funds in these separate accounts to provide for contingencies, this separate account "surplus" is not to be subject to the fiduciary responsibility rules.

H.R. Rep. No. 1280, 93 Cong., 2d Sess., 290-7(1974) (emphasis supplied).

At the public hearing on the proposed exemption, counsel for the companies responded to the comments regarding market value adjustments. According to the companies' representative, the contracts described by the applicants generally provide for the repayment of the amounts deposited, together with interest accrued at a stated rate, on a stated "maturity" date. Although one of the companies provides in its contract for repayment of the amounts deposited at an earlier date under certain circumstances, the representative stated, an insurance company entering into such a contract generally does not contemplate that there will be an early termination by the plan. In addition, the company has no legal obligation to permit such termination. Therefore, the representative asserted, when a plan requests early withdrawal of funds held by the insurance company, the parties are dealing at arm's length, and, if interest rates have increased (relative to the rate guaranteed), then the insurance company would suffer a loss if it repaid the plan 100% of the amount deposited because the market value of the investments made with such deposits would have depreciated.

The companies' counsel also indicated that, because the investment performance of assets in a separate account is not a factor in making market value adjustments, the market value adjustment issue is not relevant to the proposed class exemption or to the applicants' request that the Department issue an interpretation that assets held in a guaranteed investment contract separate account are not plan assets.

In the final exemption, the Department has not incorporated any of the specific suggestions made by the commentator with respect to market value adjustments because the proposed exemption (and the relief being provided here) is based on the Department's conclusion that, where an insurance company unconditionally guarantees the repayment, on a fixed date, of amounts deposited together with accrued interest at a stated rate, a plan has little, if any, interest in the investment performance of assets held in a separate account to which such deposits have been allocated. The Department does not believe that this conclusion has any less validity with respect to contracts that provide for a market value adjustment when amounts deposited are withdrawn before the stated maturity date, so long as the adjustment is not made with reference to the investment performance of a separate account. However, the Department notes that the "guaranteed investment contracts" described in the proposed exemption (and in the final exemption) must provide that the plan has an unqualified right to withdraw the amounts deposited and the interest accrued thereon upon the expiration of the period for which such amounts are guaranteed under the contract. Accordingly, if a contract does not provide for such an unqualified right of withdrawal on the stated maturity date, it would not be a contract described in the exemption.

Even though no specific changes to the exemption have been made to address the issues raised with respect to market value adjustments, the Department is concerned with the effect of such adjustments on employee pension plans, as well as with the potential that the fiduciary responsibility provisions of ERISA may be violated in connection with arrangements that involve the imposition of such charges. In the Department's view, under the general fiduciary responsibility provisions of ERISA, when a fiduciary contemplates contracting with an insurance company, he has an obligation to fully inform himself regarding the relevant terms of the contract, including any charges that may be made in the event amounts deposited with the insurance company are withdrawn, and to take the anticipated liquidity needs of the plan into account in determining whether to enter into the contract.[12] Similarly, the Department believes that when an insurance company that contemplates entering into a contract with a plan is a fiduciary with respect to the assets involved in the transaction for any reason, it has an obligation to adhere to the fiduciary responsibility provisions of ERISA in its dealings with the plan.[13]

III. The Final Exemption

A. *Scope.* The Department has decided to grant an exemption from the restrictions of sections 406(a) and 407(a) of ERISA for any transaction involving a guaranteed contract separate account, as defined in the exemption, provided such transaction is not part of an arrangement, direct or indirect, pursuant to which a plan acquired an interest in such separate account, and provided that such transaction is not part of any other indirect transaction between a plan and a party in interest of the kind described in ERISA Interpretive Bulletin 75-2, 29 CFR 2509.75-2.[14] In addition, as noted above, in a notice also appearing in this issue of the Federal Register, the Department is proposing a broad exemption from the restrictions of section 406(b) of ERISA for transactions involving the assets of such an account. This action is being taken because the Department is persuaded, on the basis of the comments received and the testimony given at the public hearing, that an insurance company has a general obligation to pay specified amounts under guaranteed contracts of the kinds described by the companies, and its obligations under such contracts are not affected in any manner by an insurance company's allocation of monies received from a plan to a separate account.[15] In addition, the supplemental submission of the witnesses at the public hearing indicated that most insurance companies are required by state insurance law to maintain a reserve under guaranteed investment contracts that involve a separate account in an amount equal to the accumulated balance under each contract *(i.e.,* deposits under the contract, less withdrawals, plus interest accrued at the contractually guaranteed rate).[16]

[12] See section 404(a)(1)(B) of ERISA, and the Department's regulations under that section, 29 CFR 1550.404a-1.

[13] *See e.g.* sections 404(a), 405(a), 408(b)(2) and 408(c)(2) of ERISA. An insurance company may be a fiduciary not only because it renders investment management services with respect to plan assets held in a separate account, but also for other reasons. For example, an insurance company may be a fiduciary because it renders investment advice to a plan. *See* section 3(21)(A) of ERISA.

[14] Interpretive Bulletin 75-2 describes certain indirect prohibited transactions which involve reciprocal dealing between a plan and an entity in which it invests as well as indirect prohibited transactions that result from a plan's ability to direct the affairs of an entity. These limitations are derived from the exemption application. The proposed exemption did not contain such limitations because, as was noted in the preamble to the proposed exemption, the Department believes that the arrangements and other prohibited transactions described in Interpretive Bulletin 75-2 also involve the misuse of separate plan assets and would therefore be prohibited whether or not they are expressly excluded from the exemption. However, the Department has decided to include the suggested limitations in the final exemption (and in the proposed exemption from the prohibitions of section 406(b) that is being published with this notice) in order to eliminate any uncertainty regarding the scope of the relief provided.

[15] The final exemption is limited to separate accounts maintained in connection with contracts under which, among other things, the amounts received by the plan are not, in any circumstances, affected by the investment performance of assets held in any separate account or other pooled investment fund. Thus, separate accounts maintained in connection with contracts that provide for a minimum guaranteed rate of interest and for additional interest based upon the investment performance of assets in a separate account are not covered by the exemption.

[16] The supplemental submission indicates that an additional reserve is also required in certain circumstances. In the case of certain fixed annuity contracts the consideration for which may also be held in a separate account that is covered by the exemption (discussed below), reserve requirements are based on mortality tables and interest rates

Continued

Therefore, the additional protections that would be afforded to plans by the imposition of the conditions of the proposed exemption would be limited. Finally, the comments received indicate that, because compliance with the conditions of the exemption as it was proposed would involve substantial burdens, fewer insurance companies would offer such contracts to plans, and plans would accordingly be deprived of investment alternatives that might otherwise be appropriate.

B. *Definitions.* As discussed below, in the final exemption, certain revisions have been made to the definition of "guaranteed investment contract" in response to the comments received, and a new term—"guaranteed contract separate account"—has been substituted for "guaranteed investment contract separate account" in order to reflect the availability of the exemption for separate accounts maintained in connection with certain fixed annuities. In addition, the final exemption contains a definition of "guaranteed fixed annuity contract."

1. *The "insulation" provision.* Under the proposed exemption, the assets of a "guaranteed investment contract separate account" would have been required to be legally segregated and not chargeable with liabilities arising out of any other business the life insurance company may conduct. The definition of the term "guranteed contract separate account" in the final exemption does not contain this requirement.

According to the companies, although the insurance laws of various states by their terms permit an insurance company to provide in a separate account contract that the assets of the separate account are not chargeable with liabilities arising out of any other business the insurance company may conduct, these state law provisions are not mandatory and not all state laws are comparable to those statutes that authorize the inclusion of such a provision. Specifically the companies referred to a Massachusetts statute which may have the effect of prohibiting the adoption of such a provision with respect to a separate account that is maintained in connection with a guaranteed investment contract.

Although the presence or absence of an insulation provision may (depending upon the insurance company issuing the guaranteed contract) be an element in a fiduciary's consideration of whether such a contract is an appropriate investment for a plan, the Department does not believe that it is necessary for the protection of participants (or to assure that the exemption is in their interests), to limit the scope of the exemption to separate accounts that have such a provision because, in most cases, the general credit of an insurance company will provide sufficient assurance that the amounts deposited and the agreed interest (or fixed annuity payments) will actually be paid.[17]

2. *The "exclusive purpose" provision.* The applicants also objected to a portion of the definition of "guaranteed investment contract separate account" in the proposed exemption that required that such an account be "established and maintained * * * for the exclusive purpose of supporting contractural obligations of * * * [a] life insurance company under guaranteed investment contracts * * *". In this regard, the companies stated that the reasons insurance companies maintain separate accounts in connection with guaranteed investment contracts generally involve the interest of the company, and that insurance companies invest the assets of such separate accounts in an effort to make a profit. Therefore, the companies asserted, it cannot be said that these separate accounts are maintained for the exclusive purpose of maintaining obligations under guaranteed investment contracts, and no such requirement should be imposed by the exemption.

The "exclusive purpose" requirement was included in the definition of "guaranteed investment contract separate account" in order to limit the scope of the exemption to those separate accounts that are maintained in connection with an insurance company's obligations under "guaranteed investment contracts" of the kind described. By including this requirement, the Department did not intend to restrict the reasons for which such a separate account might be established, or to limit the benefits that insurance companies might derive from establishing a separate account of this kind. Therefore, in order to clarify its intent, the Department had modified the definition to provide that an insurance company separate account will meet the requirements of the definition if it is established and maintained "solely in connection with" guaranteed contracts of the kind described in the exemption. This change is intended to remove any suggestion that a separate account would fail to be covered by the exemption merely because the use of the separate account may have been motivated by the insurance company's perception that it would be in its own best business interest to do so. However, under the revised provision, the exemption would remain unavailable for transactions involving separate accounts that are maintained, in hold or in part, to support obligations of the insurance company under contracts other than those specifically described in the exemption.

3. *Non-participating contracts providing for fixed annuities.* The companies also suggested that the scope of the exemption be expanded to include separate accounts that are maintained in connection with non-participating single premium fixed annuity contracts. According to the companies, these contracts provide for fixed annuity payments to retirees for life and the amounts payable by the insurance company under such contracts would not be affected by the investment performance of assets held in the separate account. Thus, the companies asserted, the same reasons that warrant the granting of an exemption for separate accounts used in connection with guaranteed investment contracts also apply to separate accounts that hold funds under non-participating fixed annuity contracts. The Department agrees, and has revised the exemption to include separate accounts that are maintained in connection with fixed annuities of the kind described by the companies.

General Information

The attention of interested persons is directed to the following:

1. The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary of a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties with respect to the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

2. The exemption granted here does not extend to transactions prohibited under section 406(b) of the Act and sections 4975(c)(1) (E) and (F) of the Code.

3. The exemption set forth herein is supplemental to, and not in derogation

approved by state insurance departments or prescribed by state law.

[17] Of course, the creditworthiness of the insurance company itself would be an important factor in a fiduciary's evaluation of a guaranteed investment contract issued by the company.

of, any other provisions of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record, including the written comments submitted in response to the notice of August 1, 1980, and the testimony given at the public hearing of December 8, 1980, and the supplemental submission, the Department makes the following determinations:

(i) The class exemption set forth herein is administratively feasible;

(ii) It is in the interests of plans and of their participants and beneficiaries; and

(iii) It is protective of the rights of participants and beneficiaries of plans.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1.

Section I. Exemption. Effective January 1, 1975, the provisions of sections 406(a) and 407(a) of the Act and the taxes imposed by reason of section 4975(c)(1)(A)-(D) of the Code shall not apply to any transaction between a guaranteed contract separate account and a party in interest, provided such transaction is not part of an arrangement, direct or indirect, pursuant to which a plan acquired an interest in such separate account, and provided such transaction is not part of any other indirect transaction between a plan and a party in interest of the kind described in ERISA Interpretive Bulletin 75-2, 29 CFR 2509.75-2.

Section II. Definitions. For the purposes of this exemption—

A. A "guaranteed investment contract" means a contract issued to an employee pension benefit plan, or to a fiduciary for the benefit of such a plan, by a life insurance company, under which—

1. The life insurance company issuing the contract guarantees the amounts deposited by the plan pursuant to such contract and guarantees a specified rate of interest on such amounts for a stated period of time;

2. The amounts received by, or credited to, a plan under such contract, and any charges made under such contract, are not, in any circumstances, affected by the investment performance of assets held in any separate account or other investment fund;

3. The plan has an unqualified right to withdraw the amounts deposited and the interest accrued thereon upon the expiration of the period for which the amounts deposited, and a specified rate of interest, are guaranteed under such contract; and,

4. The plan's right to recover any amount payable under such contract from the life insurance company issuing the contract, and the plan's claim against the general assets of such life insurance company for any amount payable under such contract, whether on insolvency or liquidation of the life insurance company or otherwise, would not be adversely affected by the allocation by the insurance company to a separate account of amounts received under such contract.

B. A "guaranteed fixed annuity contract" is an annuity contract issued by a life insurance company under which—

1. The life insurance company issuing the contract guarantees annuity payments to plan participants and beneficiaries that remain fixed at the amount specified in, or determined pursuant to schedules applicable to, the contract;

2. The amount of the annuity payable by the life insurance company is not, in any circumstances, affected by the investment performance of assets held in any separate account or other investment fund; and,

3. The annuitant's right to recover any amount payable under such contract from the life insurance company issuing the contract, and the annuitant's claim against the general assets of such life insurance company for any amount payable under such contract, whether on insolvency or liquidation of the life insurance company or otherwise, would not be adversely affected by the allocation by the insurance company to a separate account of the amounts received by it in connection with the issuance of the annuity.

C. A "guaranteed contract separate account" means a separate account that is established and maintained by an insurance company under the laws of a State solely in connection with the insurance company's contractual obligations under guaranteed fixed annuity contracts and guaranteed investment contracts.

D. The term "party in interest" includes a "disqualified person" described in section 4975(e)(2) of the Code.

Signed at Washington, D.C., this 9th day of September 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-27254 Filed 9-17-81; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-2874]

Proposed Class Exemption for Guaranteed Contract Separate Accounts; Fiduciary Transactions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Class Exemption.

SUMMARY: This document is a notice of pendency before the Department of Labor (the Department) of a proposed class exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA, or the Act), and from the taxes imposed with respect to such transactions under the Internal Revenue Code of 1954 (the Code). The proposed class exemption would permit life insurance companies to engage in certain transactions involving "guaranteed contract separate accounts" that might otherwise be prohibited under ERISA, and supplements a final class exemption relating to such separate accounts that is being granted by the Department simultaneously with this notice. If granted, the proposed exemption would affect participants and beneficiaries of employee pension benefit plans, fiduciaries of such plans, and life insurance companies.

DATES: Written comments and requests for a hearing must be received by the Department on or before November 17, 1981. If adopted, the proposed exemption will be effective from January 1, 1975.

ADDRESSES: All written comments and requests for a hearing (preferably three copies) should be addressed to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: "Guaranteed Contract Separate Account Exemption—Fiduciary Transactions."

The comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, Department of Labor, Room N-4677, 200 Constitution Ave., NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William A. Schmidt, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, (202) 523-9592. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed class exemption from the restrictions of section 406(b) of ERISA, and from the taxes imposed by section 4975 (a) and (b) of the Code for transactions involving certain "guaranteed contract separate accounts" maintained by life insurance companies. As described more fully in the proposed exemption, a "guaranteed contract separate account" is a separate account maintained by an insurance company in connection with its obligations under (1) contracts under which the insurance company guarantees repayment on a fixed date of amounts deposited with it by an employee pension benefit plan, together with interest accrued at a stated rate, or (2) certain fixed annuities.

Background

By notice appearing elsewhere in this issue of the Federal Register, the Department has granted a class exemption (Prohibited Transaction Exemption 81-82) that provides relief from the restrictions of section 406(a) of ERISA [1] for transactions between a party in interest and a guaranteed contract separate account. That exemption was granted pursuant to a notice of proposed exemption published on August 1, 1980, [2] and in response to an application for exemption filed by Aetna Life Insurance Company, The Equitable Life Assurance Society of the United States and The Prudential Insurance Company of America. [3] Comments were received by the Department in response to the proposed exemption, and a public hearing was held with respect to the proposed exemption on December 8, 1980. [4] On May 19, 1981, a supplemental submission was made by certain witnesses who testified at the hearing.

As discussed in greate detail in the preamble to Prohibited Transaction Exemption 81-82, the applicants for the exemption, together with certain other insurance companies and the American Council of Life Insurance (the companies), urged that the Department either rule that property held in a guaranteed contract separate account does not constitute "plan assets" (and that, therefore, transactions with a party in interest that involve such property ordinarily would not be prohibited) or expand the coverage of the proposed exemption to provide unconditional relief from the prohibitions of section 406(a) and 406(b) of ERISA with respect to transactions involving the assets of a guaranteed contract separate account.

In the preamble to Prohibited Transaction Exemption 81-82, the Department indicated that it would consider whether assets held in a guaranteed contract separate account are "plan assets" in the context of its rulemaking proceeding regarding the definition of that term. However, the Department also concluded, on the basis of the comments received in response to the proposed exemption and the testimony at the public hearing, that it is appropriate to grant relief from the restrictions of section 406(a) of ERISA for transactions between a guaranteed contract separate account and a party in interest, and Prohibited Transaction Exemption 81-82 provides for this relief.

The Department also indicated in the preamble to Prohibited Transaction Exemption 81-82, that, although the basis for granting the relief provided in that exemption also appears to support a broad exemption from the restrictions of 406(b) of ERISA, it would not be appropriate to grant such relief as part of the final exemption because the proposed exemption did not provide adequate notice to interested persons that the Department contemplated providing broad relief from section 406(b). [5] Accordingly, in order to avoid delay in granting the exemption provided by Prohibited Transaction Exemption 81-82, the Department has decided to separately propose an exemption from the prohibitions of section 406(b) and the corresponding provisions of the Code for transactions involving the assets of guaranteed contract separate accounts.

The Proposed Exemption

The proposed exemption provides that the prohibited transaction restrictions of section 406(b) of ERISA shall not apply to a transaction that is prohibited solely because it involves the assets of a guaranteed contract separate account, provided such transaction is not part of an arrangement, direct or indirect, pursuant to which a plan acquired its interest in the separate account, and provided such transaction is not part of an indirect transaction between a plan and a party in interest of the kind described in ERISA Interpretive Bulletin 75-2 (29 CFR 2509.75-2). The proposed exemption is intended to provide unconditional relief from those prohibited transaction that arise in connection with a life insurance company's management of the assets of a guaranteed contract separate account. For example, absent other relevant facts, the exemption would permit an insurance company to invest the assets of a guaranteed contract separate account in a manner that might otherwise constitute prohibited dealing with plan assets in its own interest or for its own account (such as causing the separate account to lend money to an affiliate of the insurance company) since the insurance company would be a fiduciary solely by reason of its management of the "plan assets" in the separate account. However, the proposed exemption does not provide relief for transactions that are prohibited by reason of other fiduciary relationships between an insurance company and a plan or for transactions that are part of certain indirect arrangements between a plan and a party in interest. Thus, an insurance company that is a fiduciary with respect to a plan by reason of providing investment advice for a fee or other compensation, would engage in a transaction prohibited under section 406(b)(1) of ERISA, and for which the exemption as proposed would afford no relief, if it recommends that the plan acquire a guaranteed investment contract from the insurance company. Such a transaction would involve the consideration for the contract itself, and not the assets of any guaranteed contract separate account that may be maintained in connection with it; in such

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[1] In the discussion of the proposed exemption, references to the various provisions of section 406 of ERISA should be read to refer as well to the corresponding provisions of section 4975 of the Code.

[2] 45 FR 51303.

[3] Application Number D-780. The application was filed with both the Department and the Internal Revenue Service. However, Prohibited Transaction Exemption 81-82 was granted, and this notice is being issued, solely by the Department because section 102 of Reorganization Plan Number 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1979), transferred the authority of the Secretary of the Treasury to issue exemptions of this type to the Secretary of Labor.

[4] *See* 45 FR 75365, November 14, 1980.

[5] Section 408(a) of ERISA, which establishes the Department's authority to grant exemptions from the prohibited transaction rules, provides, in part, that the Department may grant an exemption from section 406 of ERISA only after it publishes a notice of the pendency of the exemption, provides notice to interested persons, and affords interested persons an opportunity to present views. In addition, section 408(a) provides that the Department may grant an exemption from section 406(b) of ERISA only if, after affording an opportunity for a hearing, it makes a determination on the record that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan.

circumstances the exemption being proposed here would not be available.[6]

In addition, if a plan acquires an interest in a guaranteed contract separate account pursuant to an arrangement under which it is expected that the insurance company will cause assets of the separate account to be loaned to the fiduciary who has authorized the plan's acquisition of the contract, and the insurance company causes the separate account to make such loan, the insurance company has engaged in a transaction that is prohibited under section 406(b)(1) of ERISA, and, because the transaction is part of the arrangement under which the plan acquired an interest in the account, the proposed exemption would not be available.

Finally, if a plan could require a guaranteed contract separate account to engage in a transaction with a party in interest with respect to the plan (for example, if the plan owned a controlling interest in the insurance company maintaining the account and thus could direct its investments), such transaction would not be covered by the exemption because it is among the indirect prohibited transactions described in Interpretive Bulletin 75-2.[7] Such a transaction would also fail to be covered by the exemption because it involves a misuse of another plan asset—for example stock in an insurance company—and the transaction therefore would not be prohibited solely because it involves assets of a guaranteed contract separate account.

The definitions of the terms "guaranteed fixed annuity contract," "guaranteed investment contract," and "guaranteed contract separate account" in the proposed exemption are the same as the definitions used in Prohibited Transaction Exemption 81-82.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible; in the interest of the plan(s) and of participants and beneficiaries of the plan(s); and protective of the rights of such participants and beneficiaries.

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

The Department has under consideration the granting of the following class exemption pursuant to the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedure set forth in ERISA Procedure 75-1

Section I. Exemption. Effective January 1, 1975, the provisions of section 406(b) of the Act and the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(E) and (F) thereof shall not apply to any transaction that is prohibited solely because it involves the assets of a guaranteed contract separate account, provided such transaction is not part of an arrangement, direct or indirect, pursuant to which a plan acquired an interest in such separate account, and provided that such transaction is not part of any other indirect transaction between a plan and a party in interest of the kind described in ERISA Interpretive Bulletin 75-2, 29 CFR 2509.75-2

Section II. Definitions. For the purposes of this exemption—

A. A "guaranteed investment contract" means a contract issued to an employee pension benefit plan, or to a fiduciary for the benefit of such a plan, by a life insurance company, under which—

1. The life insurance company issuing the contract guarantees the amounts deposited by the plan pursuant to such contract and guarantees a specified rate of interest on such amounts for a stated period of time;

2. The amounts received by, or credited to, a plan under such contract, and any charges made under such contract, are not, in any circumstances, affected by the investment performance of assets held in any separate account or other investment fund;

3. The plan has an unqualified right to withdraw the amounts deposited and the interest accrued thereon upon the expiration of the period for which the amounts deposited, and a specified rate of interest, are guaranteed under such contract; and,

4. The plan's right to recover any amount payable under such contract from the life insurance company issuing the contract, and the plan's claim against the general assets of such life insurance company for any amount payable under such contract, whether on insolvency or liquidation of the life insurance company or otherwise, would not be adversely affected by the allocation by the insurance company to a separate account of amounts received under such contract.

B. A "guaranteed fixed annuity contract" is an annuity contract issued by a life insurance company under which—

1. The life insurance company issuing the contract guarantees annuity payments to plan participants and beneficiaries that remain fixed at the amount specified in, or determined pursuant to schedules applicable to, the contract;

2. The amount of the annuity payable by the life insurance company is not, in any circumstances, affected by the

[6] However, Prohibited Transaction Exemption 77-9 (42 FR 32395, June 24, 1977; as amended 44 FR 1479 January 5, 1979, and 44 FR 52365, September 7, 1979), provides an exemption from the prohibitions of section 406(a) and 406(b) of ERISA for the purchase with plan assets of an insurance or annuity contract from an insurance company, provided certain conditions are satisfied.

[7] As noted in the preamble to the final exemption, the exemption application suggested limitations similar to those described above. These limitations have been included in this proposal (and in the companion final exemption) in order to eliminate any uncertainty regarding the scope of the relief provided.

investment performance of assets held in any separate account or other investment fund; and,

3. The annuitant's right to recover any amount payable under such contract from the life insurance company issuing the contract, and the annuitant's claim against the general assets of such life insurance company for any amount payable under such contract, whether on insolvency or liquidation of the life insurance company or otherwise, would not be adversely affected by the allocation by the insurance company to a separate account of the amounts received in connection with the issuance of the annuity.

C. A "guaranteed contract separate account" means a separate account that is established and maintained by an insurance company under the laws of a State solely in connection with the insurance company's contractual obligations under guaranteed fixed annuity contracts and guaranteed investment contracts.

Signed at Washington, D.C., this 9th day of September, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-27267 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 81-66]

NASA Advisory Council (NAC); Meeting Cancellation

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting cancellation.

SUMMARY: The scheduled meeting on September 21–23, 1981, of the NAC Aeronautics Advisory Committee, Informal Advisory Subcommittee on Transport Aircraft, published in the Federal Register on September 3, 1981 (46 FR 44311), has been cancelled.

FOR FURTHER INFORMATION CONTACT:

Mr. Roger Winblade, National Aeronautics and Space Administration, Code RJT-2, Washington, D.C. 20546 (202/755-3000).

Russell Ritchie,

Deputy Associate Administrator for External Relations.

September 14, 1981.

[FR Doc. 81-27150 Filed 9-17-81; 8:45 am]

BILLING CODE 7510-01-M

[Notice 81-67]

NASA Advisory Council (NAC); Meeting Cancellation

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting cancellation.

SUMMARY: The scheduled meeting on September 24–25, 1981, of the NAC Aeronautics Advisory Committee, Informal Advisory Subcommittee on General Aviation Technology, published in the Federal Register on September 3, 1981 (46 FR 44311), has been cancelled.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry W. Johnson, National Aeronautics and Space Administration, Code RJG-2, Washington, DC 20546 (202/755-2380).

Russell Ritchie,

Deputy Associate Administrator for External Relations.

September 14, 1981.

[FR Doc. 81-27151 Filed 9-17-81; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Panel (Festivals Section); Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Panel (Festivals Section) will be held October 5, 1981 from 9:00 a.m. to 5:30 p.m. and October 6, 1981 from 9:00 a.m. to 5:30 p.m. in room 1422 in the Columbia Plaza Office Complex, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 81-27143 Filed 9-17-81; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-254-OLA, 50-265-OLA (Spent Fuel Pool Modification)]

Commonwealth Edison Co. (Quad Cities Station, Units 1 and 2); Order (Rescheduling Prehearing Conference)

September 14, 1981.

The special prehearing conference pursuant to 10 CFR 2.751a previously scheduled for September 30, 1981 is being rescheduled for October 14, 1981. The rescheduled conference will be held at the County Board Room, Rock Island County Office Building, 1504 Third Avenue, in Rock Island, Illinois, beginning at 9:00 a.m. The primary purposes of the conference will be to rule on petitions to intervene and on the contentions being advanced by the petitioners. Petitions to intervene, including contentions therein, may be amended without leave of the Board at any time up to September 29, 1981. The Board will also establish a schedule for further actions in this case and take such other actions as may expedite the proceeding.

Dated at Bethesda, Maryland, this 14th day of September, 1981.

For the Atomic Safety and Licensing Board.

James L. Kelley,

Chairman, Administrative Judge.

[FR Doc. 81-27247 Filed 9-17-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-414A]

Duke Power Co.; Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters; Correction

The Nuclear Regulatory Commission is correcting an error which appeared in the document published in FR Doc. 81-25590.

In FR Doc. 81-25590, appearing at page 44109, in the issue for Wednesday, September 2, 1981, the last sentence should read "Petitions for leave to intervene and request for hearing shall be filed by October 2, 1981 either * * *."

Dated at Washington, D.C. this 15th day of September, 1981.

For the Nuclear Regulatory Commission.
Thomas R. Combs,
Office of the Secretary.
[FR Doc. 81-27240 Filed 9-17-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Facility Operating License No. DPR-46, issued to Nebraska Public Power District (the licensee), which revised the Technical Specifications for operation of the Cooper Nuclear Station located in Nemaha County, Nebraska. The amendment is effective as of the date of its issuance.

This amendment modifies Appendix A of the Technical Specifications to delete the requirement that the scram discharge volume high water level scram signal be operative while the reactor is in the shutdown mode. Since the control rods are fully inserted when the reactor is in the shutdown mode, the availability of the scram discharge volume is not required. The Standard Technical Specifications for General Electric Boiling Water Reactors (NUREG-0123, Rev. 3) only require this trip to be operative in the startup mode, run mode, and refueling mode (when a control rod is withdrawn).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 21, 1981, (2) Amendment No. 73 to License No. DPR-46 and (3) the Commission's letter to the licensee dated September 11, 1981. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Auburn Public Library, 118-15th Street, Auburn, Nebraska 68304. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 11th day of September 1981.

For the Nuclear Regulatory Commission.
Vernon L. Rooney,
Acting Branch Chief, Operating Reactors Branch No. 2, Division of Licensing.
[FR Doc. 81-27248 Filed 9-17-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-395-OL]

South Carolina Electric & Gas Co., et al. (Virgil C. Summer Nuclear Station, Unit 1); Further Hearing

Please take notice that the hearing, which was adjourned on July 17, 1981, will reconvene at 9:00 a.m. on September 22, 1981 at the Rembert C. Dennis Bldg., Room 149-150, Capitol Complex, Assembly Street, Columbia, South Carolina 29211.

The public is invited.

By Order of the Board.

Dated at Bethesda, Maryland this 15th day of September 1981.

For the Atomic Safety and Licensing Board.
September 15, 1981.
Herbert Grossman,
Chairman.
[FR Doc. 81-27249 Filed 9-17-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Issuance of Amendments; Facility Operating License Nos. DPR-77 and DPR-79

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. DPR-77 and Amendment No. 1 to Facility Operating License DPR-79, issued to Tennessee Valley Authority (licensee) for the Sequoyah Plant, Units 1 and 2 (the facilities) located in Hamilton County, Tennessee. These amendments extend the date by which ceiling tiles in the control rooms must be replaced, authorize replacement of certain flow rate monitors no later than the next refueling instead of September 1, 1981, and delete 10 CFR Part 50, Appendix J requirements on an RHR supply line isolation valve. The amendments are effective as of their dates of issuance.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) environmental impact statements, or negative declarations and environmental impact appraisals need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) Tennessee Valley Authority letters dated August 14, August 20, and August 25, 1981; (2) Amendment No. 9 to Facility Operating License No. DPR-77 with Appendix A Technical Specification page changes; (3) Amendment No. 1 to Facility Operating License No. DPR-79 with Appendix A Technical Specification page changes; and (4) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of Amendment No. 9 and Amendment No. 1 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of September 1981.

For the Nuclear Regulatory Commission.
Elinor G. Adensam,
Acting Chief, Licensing Branch No. 4, Division of Licensing.
[FR Doc. 81-27250 Filed 9-17-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp., Issue of Amendment to Facility Operating License

The Nuclear Regulatory Commission

(the Commission) has issued Amendment No. 66 to Facility Operating License No. DPR-28 issued to Vermont Yankee Nuclear Power Corporation which revises the Technical Specifications for operation of the Vermont Yankee Nuclear Power Station located in Windham County, Vermont. The amendment is effective as of the date of its issuance.

The amendment revises the organizational structure and internal responsibilities for the Vermont Yankee Nuclear Power Corporation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 4, 1981, and as amended by the licensee's letter dated August 25, 1981, (2) Amendment No. 66 to License No. DPR-28, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301. A copy of items (2) and (3) may be obtained upon request addressed to the Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of September 1981.

For the Nuclear Regulatory Commission

Vernon L. Rooney,

Acting Branch Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-27251 Filed 9-17-81; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-528A, STN 50-529A, and STN 50-530A]

Arizona Public Service Co., et al.; Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Note.—This document was originally published in the issue of September 2, 1981. It is reprinted here at the request of the Nuclear Regulatory Commission.

Arizona Public Service Company, pursuant to section 103 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 Los Angeles Department of Water and Power and the Southern California Public Power Authority, for the Palo Verde Nuclear Generating Station. The current holders of the construction permits are Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, Southern California Edison Company, El Paso Electric Company, and Public Service Company of New Mexico.

The information was filed in connection with the application submitted by the construction permit holders for operating licenses for three pressurized water reactors. Construction was authorized on May 25, 1976 at the Palo Verde site located in Maricopa County, Arizona.

The original application was docketed on October 7, 1974, and the Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental Report; Time for Submission of Views on Antitrust Matters was published in the Federal Register on October 22, 1974 (39 FR 37527). The Notice of Receipt of Application for Facility Operating Licenses; Notice of Availability of Environmental Report; and the Notice of Considertion of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing was published in the Federal Register on July 11, 1980 (45 FR 46941). Subsequently, the Notice of Hearing was published in the Federal Register on April 22, 1981 (46 FR 23001).

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 Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Arizona 85004.

Any person who wishes to have his views on the antitrust matters with respect to the Los Angeles Department of Water and Power and the Southern California Public Power Authority 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 November 9, 1981.

Dated at Bethesda, Maryland, this 26th day of August, 1981.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 81-25482 Filed 9-17-81; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-18095; File No. SR-MSRB-81-13]

Municipal Securities Rulemaking Board; Proposed Rule Change; Self-Regulatory Organizations

In the matter relating to yield disclosure on customer confirmations. Comments requested on or before October 9, 1981.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 2, 1981, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Municipal Securities Rulemaking Board is filing an interpretive notice regarding certain yield disclosure requirements on confirmations of purchases from customers under rule G-15. The notice states the Board's view that all confirmations of purchases from customers (except for purchases at par) must set forth the net or effective yield resulting from the actual unit dollar price of the transaction. The yield disclosure on confirmations of purchase

from customers is intended to provide customers with a means of assessing the merits of alternative investment strategies (such as different possible reinvestment transactions) and the merits of the particular transaction being confirmed.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The purpose of the proposed rule change is to clarify the yield disclosure requirements of rule G–15 regarding customer confirmations. Since the December 1, 1980, effective date of these requirements, the Board has received several inquiries whether all confirmations of purchases from customers effected on the basis of a dollar price, including purchases effected at a price derived from a yield price less a spread or concession, must show a yield resulting from the actual dollar price. This interpretation will clarify that a confirmation for such a transaction, like all other confirmations of purchases from customers,[1] must set forth the net or effective yield resulting from the actual dollar price of the transaction.

(b) The Board has adopted the proposed rule change pursuant to Section 15B(b)(2)(C) of the Securities Exchange Act which establishes the Board's general authority to adopt rules.

> Designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, * * * to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *

The proposed rule change is intended to enable customers to better assess the merits of alternative investment strategies (such as different possible reinvestment transactions) as well as the merits of the particular transaction being confirmed. The Board believes that these purposes are consistent with Section 15B(b)(2)(C) and are best achieved by the disclosure of the net or effective yield, (*i.e.*, that derived from the actual unit dollar price of the transaction).

[1] Confirmations of purchases or sales effected at par continue to be exempt from any yield disclosure requirements.

B. The Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that the proposed rule change will not have any impact on competition, inasmuch as the proposed rule change merely clarifies the manner in which municipal securities brokers and municipal securities dealers are to comply with an existing requirement of Board rules, and applies equally to all such municipal securities brokers and dealers.

The Board notes that upon adoption of the provisions of rule G–15 to which this interpretation relates, the Board considered whether any burden on competition might result. The Board concluded that no significant burden on competition would result.

C. Self-Regulatory Organization's Statement on Comments on Proposed Rule Change Received From Members, Participants or Others

The Board neither solicited nor received comments on the proposed rule change from members, participants or others. The Board from time to time has received inquiries from industry members concerning the application of the yield disclosure requirements of rule G–15 as they apply to purchases from customers.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted or before October 9, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 14, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-27163 Filed 9-17-81; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 11935; (812-4924)]

Putnam Qualified Accumulation Trust and Putnam High Yield Trust; Filing of an Application

September 14, 1981.

Notice is hereby given that Putnam Qualified Accumulation Trust ("Putnam Qualified"), and Putnam High Yield Income Trust ("Putnam High Yield") (collectively referred to as "Applicants"), One Post Office Square, Boston, Massachusetts 02109, registered under the Investment Company Act of 1940 ("Act") as open-end, diversified management investment companies, filed an application on July 20, 1981, and an amendment thereto on August 31, 1981, pursuant to Section 6(c) of the Act, for an order declaring that Hans H. Estin, trustee of Applicants, shall not be deemed to be an "interested person" of the Applicants, or The Putnam Management Company, Inc. ("Manager"), the investment adviser to the Applicants, or Putnam Fund Distributors, Inc. ("Underwriter"), principal underwriter of the Applicants in the continuous offering of their shares, within the meaning of Section 2(a)(19) of the Act solely by reason of his being director of The Boston Company, Inc. and Boston Safe Deposit and Trust Company ("Boston Safe"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Putnam Qualified is a Massachusetts business trust which filed a registration statement under the Securities Act of 1933 on July 28, 1980. Such registration statement has not yet become effective.

Applicants state that Putnam Qualified, whose investment objective is to seek accumulation of income through investment primarily in common stocks, is designed to fund, in whole or in part, tax qualified variable annuity contracts.

Putnam High Yield is also a Massachusetts business trust. Applicants state that its primary investment objective is high current income through investment in high yield fixed-income debt securities, convertible securities and preferred stock.

Applicants further state that Mr. Estin, whose principal occupation is Vice Chairman of North American Management Corporation, an investment adviser registered under the Investment Advisers Act of 1940, is trustee or director of substantially all other investment companies in The Putnam Group and of Yellowknife Bear Mines, Ltd. He is also director of The Boston Company, Inc. and one of its subsidiaries, Boston Safe. The Boston Company, Inc. has another subsidiary, The Boston Company Investment Creation, Inc. ("Creation"), which is a registered broker dealer under the Securities Exchange Act of 1934 ("1934 Act").

The Applicants state that by reason of his position as director of The Boston Company, Inc., Mr. Estin might be deemed to indirectly control Creation; or by reason of his position as director of Boston Safe, he might be deemed to be under common control with Creation. In either case, Mr. Estin would be an "affiliated person" of a broker-dealer within the meaning of Section 2(a)(3) of the Act.

Section 2(a)(19) of the Act, in pertinent part, defines an interested person of an investment company, investment adviser or principal underwriter to be any affiliated person of a broker-dealer registered under the 1934 Act. Section 2(a)(3) of the Act, in pertinent part, defines an affiliated person to be any person directly or indirectly controlling, controlled by or under common control with such other person.

Section 10(a) of the Act prohibits Applicants from having boards of trustees more than 60% of which are interested persons of the Applicants. Section 10(b)(2) of the Act requires that a majority of Applicants' boards of trustees not be persons who are interested persons of Applicants' principal underwriter. Although the composition of Applicants' boards presently complies with Section 10, Applicants state that the application has been filed to avoid a potential violation of Section 10 of the Act and to maintain the composition of the boards consistent with prior Commission orders and with the policy of the investment companies in The Putnam Group of having a high proportion of trustees or directors who are not deemed interested persons.

The Commission has previously granted orders (Investment Company Act Release No. 9284, May 10, 1976; Investment Company Act Release No. 9610, January 17, 1977; and Investment Company Act Release No. 9934, September 15, 1977) upon application declaring that Mr. Estin would not be deemed an "interested person" of certain investment companies solely by reason of his relationship with Boston Safe. While Mr. Estin now has a relationship with both The Boston Company and Boston Safe, Applicants submit that the facts and representations set forth in those prior applications (812-3921, 812-4029 and 812-4130) continue to be true and accurate (except that Creation is now a direct subsidiary of The Boston Company whereas its predecessor, TBCFS, Inc., was a subsidiary of a subsidiary of The Boston Company Inc., The Boston Company Financial Strategies, Inc.), and the bases upon which the prior orders were granted apply equally to the present application. The representations applicable to Mr. Estin include the following:

1. The relationship of Mr. Estin with The Boston Company, Inc., Boston Safe, and Creation will not impair his independence in acting on behalf of Applicants and their shareholders. Mr. Estin will not be director or officer of Creation, and will have no authority or responsibility for management of the operation of Creation.

2. The business of Creation, will relate primarily to the structuring and placement of sale of oil and gas programs and other investment programs and ventures. Because of their investment restruction, Applicants could not legally purchase or sell such investments from or through Creation. Applicants do not intend to make any such investments and moreover, undertake not to transact any business with Creation.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants request that an order be issued, pursuant to Section 6(c) of the Act, declaring that Mr. Estin Shall not be deemed to be an interested person of Applicants, the Manager or the Underwriter within the meaning of Section 2(a)(19) of the Act solely by reason of his being a director of The Boston Company, Inc. and Boston Safe.

The Applicants understand that certain principal shareholders of The Boston Company, Inc. have entered into an agreement in principle whereby, in pertinent part, a newly created subsidiary of Shearson Loeb Rhoades Inc. ("Shearson"), a registered broker-dealer under the Securities Exchange Act of 1934, would merge with the Boston Company, Inc. Applicants state that the consummation of this transaction is subject to a number of conditions, including approval of shareholders of The Boston Company, Inc. Notwithstanding any order of the Commission pursuant to this application, in the event that the contemplated transaction, or one substantially similar to it, is consummated, the Applicants agree to treat Mr. Estin as an "interested person", as the term is defined in Section 2(a)(19) of the Act, of each Applicant until such time as the Commission grants further appropriate exemptive relief, provided that (i) Mr. Estin remains a director of The Boston Company, Inc. or of Boston Safe and (ii) Shearson remains a registered broker-dealer under the Securities Exchange Act of 1934.

Notice is further given that any interested person may, not later than October 9, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of request shall be served personally or by mail upon Applicants 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 the application herein 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 therof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-27164 Filed 9-17-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Business Loan Policy; Notice of Intent To Publish Maximum Acceptable Rate; Extension of Comment Period

AGENCY: Small Business Administration.

ACTION: Notice of Intent; Extension of Comment Period.

SUMMARY: SBA published a Notice of Intent in the Federal Register of July 29, 1981, (46 FR 38894) to change the maximum acceptable interest rate that participating lenders may charge. The Agency has decided that a comment period ending on August 28 does not provide adequate time for comments to be submitted by interested parties. Accordingly, the Agency is extending the comment period for an additional 30 days to allow all interested parties to respond.

DATE: Comments must be received or postmarked on or before October 19, 1981.

ADDRESS: Written comments, in duplicate, are to be addressed to the Director, Office of Business Loans, Small Business Administration, 1441 L Street, NW., Washington, DC. 20416.

FOR FURTHER INFORMATION: Questions about this notice may be directed to: Richard L. Wray, Financial Analyst, (202) 653-6470.

SUPPLEMENTARY INFORMATION: An SBA Notice of Intent was published in the Federal Register on July 29, 1981, (46 FR 38894). It notified the public that the Agency was proposing to publish a notice that would limit the maximum acceptable interest rate charged by participating lenders to the lowest money center prime rate appearing in the Wall Street Journal published on the date SBA received the lender's application. The present ceiling is the money center prime rate plus 2¼ or 2¾ percent, depending on the maturity of the loan. The majority of the initial responses that SBA has received are from lenders who commented on a Wall Street Journal article that discussed the SBA Notice of Intent and did not fully respond to the Federal Register Notice. Also, the Chairman of the Small Business Committee of the U.S. House of Representatives requested that the comment period be extended for thirty days. Accordingly, SBA has decided to extend the comment period.

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

Dated: September 14, 1981.

Michael Cardenas,

Administrator.

[FR Doc. 81-27269 Filed 9-17-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket S-704]

Acturus Shipping, Inc.; Application; Participation by Vessels Built With Construction-Differential Subsidy in Carriage of Crude Oil in Domestic Trade

Notice is hereby given that by application of September 9, 1981, Acturus Shipping, Inc. (Acturus) requested permission under section 506 of the Merchant Marine Act, 1936, as amended, for its bareboat chartered vessel, the SS Williamsburgh, to operate for six months in the Alaskan oil trade. The 225,000 deadweight ton Williamsburgh, which was built with construction-differential subsidy, would carry crude oil from Valdez, Alaska, to Panama for transshipment, and/or from Valdez direct to the U.S. Gulf or Caribbean for oncarriage only to a U.S. port. Acturus states that suitable Jones Act vessels of competitors will not be available for the carriage of this cargo.

The Williamsburgh would operate under sub-time charter from American Petrofina, Incorporated to SPC Shipping, Inc., a subsidiary of Standard Oil Company (Ohio). First loading of the vessel at Valdez would commence November 1–15, 1981.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration, Room 7300A, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Any person, firm, or corporation who is a "competitor," as defined in § 250.2 of the regulations as set forth in 46 CFR 250 published in the Federal Register issue of June 29, 1977 (42 FR 33035), and desires to protest such application for carriage of oil in the domestic trade from Alaska to Panama should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Any person, firm or corporation who desires to protest such application for carriage of oil in the domestic trade from Alaska directly to the U.S. Gulf should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Protests must be received on or before September 25, 1981. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Maritime Administrator. Within five working days after the due date for the applicant's response, the Maritime Administrator will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Maritime Administrator will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidy (CDS))

Dated: September 16, 1981.

By Order of the Acting Maritime Administrator.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 81-27470 Filed 9-17-81; 10:43 am]

BILLING CODE 3510-15-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Granting of Relief From Disabilities Incurred by Conviction

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of granting of relief from disabilities incurred by conviction.

SUMMARY: The persons named in this notice have been granted relief by the Director, Bureau of Alcohol, Tobacco and Firearms, from their disabilities imposed by Federal laws. As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Lyman H. Schaffer, Firearms Enforcement Branch, Investigations Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20026 (202-566-7457).

SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 925(c), the persons named in this notice have been

granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to the Director's satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

The following persons have been granted relief:

Adkins, Richard N., 726 Olive Street, Chico, California, convicted on December 20, 1976, in the District Court of Morgan County, Colorado.

Agnos, Micholas W., 185 Merrimac Avenue, Springfield, Massachusetts, convicted on May 27, 1963, in the Hampden County District Court, Springfield, Massachusetts.

Andrews, William J., 4177 Jackson Highway, Apt. 2, Chehalis, Washington, convicted on March 29, 1974, in the District Court of Lewis and Clark County, Montgomery, Washington.

Azar, Solomon G., 2875 Cocklebur Cove Court, Decatur, Georgia, convicted on February 10, 1955, and on June 18, 1962, in the Fulton County Superior Court, Atlanta, Georgia.

Bailey, Danny R., 209 West 32nd Street, Covington, Kentucky, convicted on August 2, 1967, in the Kenton Circuit Court, Covington, Kentucky.

Bailey, William H., 715 Radney Street, Roanoke, Alabama, convicted on September 12, 1960, in the Coweta County Superior Court, Georgia.

Bakovich, Daniel R., 2647 Somerset Drive, Westchester, Illinois, convicted on December 6, 1945, in the Northern Judicial District of Illinois, Eastern Division of Chicago, Illinois; on September 14, 1955, in the Cook County Court, Chicago, Illinois; on June 3, 1958, in the Northern Judicial District of Chicago, Illinois; and on August 28, 1964, in the Northern District of Hammond, Indiana.

Barnes, Samuel E., 1608 Tichenor Street, Des Moines, Iowa, convicted on February 2, 1966, in the District Court of Polk County, Iowa.

Bates, Michael A., 6862 Vail Drive, Lynden, Washington, convicted on May 16, 1974, in the Superior Court of Lewis County, Washington.

Batson, Harold O. Jr., 5305 South Vista Drive, Bonney Lake, Washington, convicted on June 1, 1978, in the King County Superior Court, State of Washington.

Berry, Lionel P., Est. Mandal 14C, St. Thomas, Virgin Islands, convicted on February 24, 1956, in the United States District Court, Virgin Islands.

Billings, Floyd D., 2693 Ovid Street, Crystal, Michigan, convicted on March 19, 1956, in the Circuit Court of Montcalm County, Michigan; and on September 24, 1956, in the Circuit Court of Gratiot County, Michigan.

Bjork, Roger L., Route 1, Box 129–A, Nine Mile Falls, Washington, convicted on January 8, 1973, in the Superior Court of Okanogan County, Washington; and on July 9, 1975, in the United States District Court, Eastern District of Washington.

Blackstock, Brian T., 10611 Hemwick, Houston, Texas, convicted on October 19, 1976, in the 209th District Court, Harris County, Texas.

Blomgren, Ellis C., 531 Park Street, Shelton, Washington, convicted on May 27, 1976, in the Mason County Court, Shelton, Washington.

Bradford, John C., 1001 Wisperwood Drive, Columbus, Georgia, convicted on January 15, 1974, in the United States District Court, Birmingham, Alabama.

Bradley, Lance A., 623 South Morain, Kennewick, Washington, convicted on June 15, 1979, in the Superior Court of Benton, County, Washington.

Brasier, Orvel J., 724 SW. 44th Street, Oklahoma City, Oklahoma, convicted on June 3, 1933; and on June 11, 1935, in the District Court of Oklahoma County, Oklahoma.

Brown, Cressel C., P.O. Box 312, Burnside, Pulaski County, Kentucky, convicted on November 12, 1958, in the United States District Court, London, Kentucky.

Bumgarner, Avery E., P.O. Box 415, Calaway Way, Forks, Washington, convicted on March 27, 1962, in the Clallam County Superior Court, Washington.

Bush, Charles D., 370 Fox Street, Kings Beach, California, convicted on November 25, 1977, in the Second Judicial District Court, Washoe County, Nevada.

Butler, Robert A., P.O. Box 11, Columbia, California, convicted on October 25, 1970, in the Superior Court of Siskiyou County, California; and on April 1, 1971, in the Superior Court of Tuolumne County, California.

Button, Roger, W., 204 West 34th Street, Boise, Idaho, convicted on March 30, 1970, in the Fourth District Court of Boise, Idaho.

Cacchiotti, Lawrence, 3804 West Logan Avenue, Yakima, Washington, convicted on March 14, 1977, in the United States District Court, Eastern District of Washington.

Cameron, Robert E., 10 Phillips Street, Rutland, Vermont, convicted on January 11, 1945, in the General Court Martial, U.S. Army, Kessler Field, Mississippi.

Castilaw, George D., 2190 Wharton, Vidor, Texas, convicted on October 3, 1977, in the 252nd District Court, Jefferson County, Texas.

Chaney, Victor E., 3101 North 45th Drive, Phoenix, Arizona, convicted on June 19, 1972, in the Superior Court of Maricopa County, Arizona.

Chavez, Larry C., 2134 South 2nd, P.O. Box 1663, Abilene, Texas, convicted on October 5, 1970, in the 104th Judicial District Court, Jones County, Texas.

Comp, Robert F., Sr., 1623 Graystone Road, East Petersburg, Pennsylvania, convicted on November 10, 1959, in the Bridgeport Police Department Court, Bridgeport, Connecticut.

Cook, John E., 1311 Middlebelt, Apt. 17, Inkster, Michigan, convicted on September 30, 1974, in the Hillsdale County Circuit Court, Hillsdale, Michigan.

Cordova, Frank L., P.O. Box 13, Ojo Feliz, New Mexico, convicted on March 23, 1979, in the District Court of Las Vegas, New Mexico.

Crawford, Cleo J., 9624 East 50 Highway, Raytown, Missouri, convicted on 1936, 1938, 1948, 1952, in the Missouri Circuit Court; in 1952 and 1960, in the United States District Court, Missouri; and in 1964 in the Missouri Circuit Court, Missouri.

Crother, Harry D., 1772 Armington Avenue, Sacramento, California, convicted on October 3, 1969, in the Common Pleas Court, Philadelphia, Pennsylvania.

Damm, Larry A., 330 North Water, Platteville, Wisconsin, convicted on February 9, 1976, in the Circuit Court, Grant County, Wisconsin.

D'Arpa, Danny R., 750 Royal Crest Circle, Apt. 232, Las Vegas, Nevada, convicted on September 15, 1972, in the District Court of Clark County, Nevada.

Davis, Stephen F., 4340 East Kinkaid, Witchita, Kansas, convicted on March 22, 1976, in the District Court of Sedgwick, Kansas.

Delamar, Christopher F., 4117 Stuart Avenue, Richmond, Virginia, convicted on May 11, 1977, in the Circuit Court, City of Richmond, Virginia.

Deyoe, Donald F., 4118 36th Avenue South, Seattle, Washington, convicted on May 3, 1950, in the Superior Court of King County, Washington; and on February 18, 1958, in the Superior Court of Mason County, Washington.

Ellis, Robert L., 32 Johnson Street, Ansonia, Connecticut, convicted on March 4, 1977, in the District of

Connecticut Federal Court, New Haven, Connecticut.

Epps, Robert R., 106 Fawn Hills Drive, Fredericksburg, Virginia, convicted on October 8, 1954, in the Circuit Court of Greenville, Virginia.

Erickson, John C., Rural Route 2, St. Cloud, Minnesota, convicted on May 13, 1974, in the United States District Court, Third Division, St. Paul, Minnesota.

Evans, Matthew J., 1266 Cedar Street, Apt. 1, Marysville, Washington, convicted on July 27, 1977, in the Circuit Court of Umatilla County, Washington.

Fabian, Randall W., 612 5th Avenue, SW., Stewartville, Minnesota, convicted on October 11, 1979, in the Third Judicial District Court, Olmstead County, Minnesota.

Fisher, Arthur L., 16322 Elberta Street, Cleveland, Ohio, convicted on January 18, 1974, in the Cuyahoga County Court of Common Pleas, Ohio.

Folsom, Michael D., 7800 DeBarr, Apt. 31, Anchorage, Alaska, convicted on May 7, 1976, in the United States District Court, Alaska.

Forrester, Texas J., P.O. Box 264, Cooter, Missouri, convicted on May 26, 1964, in the Shelby County Court, Tennessee.

Fowler, Steven W., 8650 Humboldt Avenue, South, Bloomington, Minnesota, convicted on November 14, 1977, in the District Court of Dakota County, Minnesota.

Fragner, Terry L., 17359 191st Avenue, NE., Woodinville, Washington, convicted on November 21, 1966, in the Circuit Court of Deschutes County, Oregon; and on May 16, 1968, in the Superior Court of King County, Washington.

Frechette, Philip L., Route 2, P.O. Box 677, North Concord, Vermont, convicted on November 5, 1973, in the Coos County Superior Court, Berlin, New Hampshire.

Freda, Carl, 151–40 23rd Avenue, Whitestone, New York, convicted on May 27, 1977, in the Federal District Court, Southern District of New York.

Frye, George F., 5055 Seminary Road, Apt. 932, Alexandria, Virginia, convicted on May 23, 1969, in the Arlington County Circuit Court, Virginia.

Fuller, John E., 132 South 50th Street, Philadelphia, Pennsylvania, convicted on March 11, 1974, in the Municipal Court, Philadelphia, Pennsylvania.

Gaskill, Sidney E., 636 South Crispell Lake, Horton, Michigan, convicted on October 20, 1968, in the Supreme Court of New York City, New York; and on December 23, 1970, in the Circuit Court of Wayne County, Michigan.

Gebhart, Billy E., 818 Cottonwood Drive, Cheyenne, Wyoming, convicted on October 24, 1973, in the United States District Court of Wyoming.

Geertgens, Darrel V., 3733 SW. Ida, Seattle, Washington, convicted on November 8, 1971, in the Superior Court of King County, Washington.

Gifford, Frederick S., 62 Cora Street, Route 1, Box 1091, Port Townsend, Washington, convicted on July 15, 1977, and on August 19, 1977, in the Superior Court of Jefferson County, Washington.

Godsey, Robert E., 1701 Foxfire Circle, Richmond, Virginia, convicted on January 14, 1972, in the Circuit Court of Henrico County, Virginia.

Goff, Gary L., Route 3, Box 483, Rustburg, Virginia, convicted on November 7, 1977, in the Circuit Court of Lynchburg, Virginia.

Gray, Edward L., 2102 East Carpenter Road, Flint, Michigan, convicted on June 1, 1971, in the Circuit Court, Genesee County, Michigan.

Greene, Alphonse, 814 Ash Street, Flossmoor, Illinois, convicted on February 21, 1958, in the Federal Court, Northern District of Illinois.

Grieco, Michael C., 8963 Alta Loma Drive, Alta Loma, California, convicted on May 17, 1961, and on June 6, 1963, in the Superior Court of Los Angeles County, California.

Griffith, Alvin T., 2600 Noble Avenue, Bakersfield, California, convicted on March 16, 1970, in the United States District Court, Eastern District of Fresno, California.

Hall, William R., Star Route, Box 274–H, Durant, Oklahoma, convicted on November 2, 1956, in the Criminal District Court #3, Dallas County, Texas; and on May 20, 1957, in the Fourth District Court of Rusk County, Texas.

Harris, Richard M., Route 3, Box 410, Athens, Texas, convicted on October 3, 1977, in the Third Judicial District Court, Henderson County, Texas.

Harvill, Harold G., 73 Helen Lane, Apt. 2, Ft. Myers Beach, Florida, convicted on December 30, 1974, in the United States District Court, Baltimore, Maryland.

Hernandez, Rene R., 11222 Newton, Houston, Texas, convicted on March 22, 1977, in the 179th Criminal District Court, Harris County, Texas.

Higgins, John R., 682 Henry Street, Vallejo, California, convicted on October 4, 1971, in the Superior Court of Solano County, California.

Holaday, Mickel A., 1315 South Brite, Springfield, Missouri, convicted on August 5, 1975, in the Circuit Court of Daviess County, Missouri.

Hollowell, James L., Route 9, Hopkinsville, Kentucky, convicted on November 15, 1978, in the Christian County Circuit Court, Hopkinsville, Kentucky.

Holtz, Carl N., 1050 Mark, South Elgin, Illinois, convicted on March 17, 1972, in the Cook County Court, Illinois.

Honeycutt, Donald E., Route 1, Box 1187 New London, Albermarle, North Carolina, convicted on April 8, 1974, in the United States District Court, Western District of North Carolina; and on October 26, 1976, in the United States District Court, Western District of North Carolina.

Huerta, Raymond, 1418 Partridge Drive, Hercules, California, convicted on April 12, 1966, in Alameda County Court, Oakland, California; on June 16, 1967, in the United States District Court, Northern District of California; and on November 10, 1969, in the United States District Court, Southern District of California.

Hunt, E. Howard, 1245 NE. 85th Street, Miami, Florida, convicted on January 12, 1973, in the United States District Court, Washington, DC.

Jack, Oakley H. Jr., 419 South Pennsylvania Street, Greenfield, Indiana, convicted on January 27, 1942, in the Henry County Circuit Court, Indiana.

Jackley, Jeff. P.O. Box 502, Bloomington, Wisconsin, convicted on October 19, 1976, in the 22nd Judicial District Court, St. Tammany Parish, Louisiana.

Jarvis, Robert L., 51 College Street, Butler, Ohio, convicted on April 14, 1977, in the United States District Court, Akron, Ohio.

Jarvis, Walter L., 21582 East 8 Mile Road, Harper Woods, Michigan, convicted on July 29, 1960, in the Macomb County Circuit Court, Michigan.

Johnson, Myron D., 150 East Bannock Street, Richfield, Idaho, convicted on July 11, 1978, in the Fifth Judicial District, Lincoln County, Idaho.

Johnson, Scott B., 4403 West Stewart Avenue, Wausau, Wisconsin, convicted on June 26, 1974, in the District Court of Marathon County, Wisconsin.

Jones, Leland C., 3516 Hickory Court, Route 2, Philpot, Kentucky, convicted on November 7, 1974, in the Daviess County Circuit Court, Kentucky.

Jones, Ronald J., 15-½ Cain Street, Proctor, Vermont, convicted on January 18, 1965, and on February 1, 1966, in the Rutland Municipal Court, Rutland, Vermont.

Jones, William P., 2009 First Street, Staunton, Virginia, convicted on December 2, 1975, in the Circuit Court of Augusta County, Staunton, Virginia.

Jourdan, George C., 13101 Bundle Road, Chesterfield, Virginia, convicted on February 3, 1978, in the Chesterfield County Circuit Court of Virginia.

Kahmann, Eric L., West Avenue, Apt. J-12, Lancaster, California, convicted on June 22, 1978, in the Superior Court of Los Angeles County, California.

Kalafut, Thomas M., 2744 Camel Road, National City, Michigan, convicted on October 30, 1978, in the Circuit Court, Iosco County, Michigan.

Kaufman, Shelby B., 1410 East Kelly Street, Indianapolis, Indiana, convicted on March 11, 1955, in the Johnson Circuit Court, Franklin, Indiana; on August 15, 1957, and on June 16, 1966, in the Marion County Criminal Court, Indianapolis, Indiana.

Kaplan, Arthur S., Route 1, Box 199, Graham, North Carolina, convicted on February 19, 1974, in the Superior Court of Chatham County, North Carolina.

Kebschull, William F. Jr., 6036 Nimbus Way, Salt Lake City, Utah, convicted on June 10, 1974, in the District Court, Third Judicial District of Tooele County, Utah.

Keith, Robert W., 3732 Sunny Slope Road, SW., Port Orchard, Washington, convicted on May 5, 1979, in the Superior Court of Kitsap County, Washington.

Kemp, Lee W., 106 Waycross Street, Berea, Kentucky, convicted on June 2, 1977, in the Madison County Circuit Court, Richmond, Virginia.

Kempton, William L., 15814 Fresno Street, Victorville, California, convicted on November 13, 1970, in the District Court of Teton County, Wyoming.

Kerrick, Jimmy R., P.O. Box 31, Bells, Texas, convicted on November 14, 1975, in the 47th District Court, Potter County, Texas.

Keuvelaar, Robert E. II, 140 Diamond, SE., Grand Rapids, Michigan, convicted on January 6, 1977, in the Circuit Court, Kent County, Michigan.

Kidwell, Charles F., 71 East Schiller, Indianapolis, Indiana, convicted on November 7, 1958, in the Marion County Criminal Court, Indiana.

King, Bill, RD 1, Box 182-B, Hazelton, Pennsylvania, convicted on November 15, 1979, in the United States District Court, Southern District of Florida.

Krupp, Neil A., Box A, 1963 Taylor Road, Elkhorn, Wisconsin, convicted on April 17, 1974, in the Walworth County Court, Elkhorn, Wisconsin.

Lampley, Albert W., P.O. Box 356, #4, Timber Village, Shingletown, California, convicted on May 10, 1976, in the Superior Court, Shasta County, California.

Landers, John W., 231 Dan Bowles Road, Augusta, Georgia, convicted on January 12, 1977, in the Superior Court of Richmond County, Georgia.

Lawson, Roger D., P.O. Box 32, Fourmile, Kentucky, convicted on November 12, 1974, in the United States District Court, London, Kentucky.

Levine, Barry, P.O. Box 139, Badger, California, convicted on June 12, 1970, in the Cayahoga County Court of Ohio.

Loch, William Y., 3813 NW. 125th, Oklahoma City, Oklahoma, convicted on September 15, 1977, in the United States District Court, Western District of Oklahoma.

Luebbert, John J., 132 West Washington, Apt. 5, St. James, Missouri, convicted on June 2, 1971, in the Phelps County Court, Rolla, Missouri.

Maddox, Charles E. II, 9119 49th Place, College Park, Maryland, convicted on March 23, 962, in the United States District Court, Oxford, Mississippi.

Madison, Robert L., 185 Clearvue Road, Huntsville, Alabama, convicted on March 11, 1976, in the Northern District of Birmingham, Alabama.

Magor, Richard N., 3439 Dover Road, Cheyenne, Wyoming, convicted on April 26, 1956, in the Second Judicial District Court, Albany County, Wyoming.

Maldonado, Robert P., 2120 North 48th Lane, Phoenix, Arizona, convicted on October 31, 1973, in the Superior Court of Maricopa County, Arizona.

Mandala, Lawrence J., RFD 1, Box 427, Edinburg, Virginia, convicted on June 29, 1977, in the Circuit Court of Woodstock, Virginia.

Mann, George P., 1122 Whistle Lake Road, Anacortes, Washington, convicted on September 17, 1970, in the Superior Court of King County, Washington; and on August 4, 1970, in the United States District Court, Western District of Washington.

Martin, Joseph C., 1620 Clark Boulevard, Laredo, Texas, convicted on May 22, 1978, in the United States District Court, in the Southern District of Texas.

McBride, Clayton E., 901 Violet Street, Coeur d'Alene, Idaho, convicted on May 19, 1966, in the Superior Court of Spokane County, Washington.

MCoy, Archie B., Rural Route 5, Box 31-A, Carrollton, Missouri, convicted on April 10, 1972, in the Circuit Court, Carrollton, Missouri.

McCullough, Gene R., 310 East Marion Street, Aberdeen, Washington, convicted on March 30, 1973, in the Superior Court of Grays Harbor, Washington.

Menard, Joseph D., 17252 Military Road, South, Seattle, Washington, convicted on July 9, 1947, in the Superior Court of Yakima County, Washington.

Metcalf, James S., Route 5, Box 413, Dothan, Alabama, convicted on December 12, 1975; and on January 21, 1976, in the United States District Court, Middle District of Alabama.

Metz, Ira G., 4240 Annapolis Drive, Salt Lake City, Utah, convicted on November 23, 1949, in the United States District Court, Charleston, West Virginia; on January 20, 1953, in the Criminal District Court of New Orleans, Louisiana; on January 9, 1956, in the Common Pleas Court, Summit County, Ohio; on September 4, 1956, in the United States District Court, Northern District of West Virginia; on June 2, 1958, in the United States District Court, Northern District of Georgia; and on September 18, 1961, in the United States District Court, Northern District of Georgia, Atlanta, Georgia.

Mewhorter, Earl E., 3716 Trent Boulvard, Lexington, Kentucky, convicted on June 29, 1973, in the Harrison County Circuit Court, Kentucky; and on July 20, 1973, in the Scott County Circuit Court, Kentucky.

Michael, Bobby J., 816 Keller Lane, Tuscubia, Alabama, convicted on March 29, 1971; and on May 21, 1974, in the Colbert County Circuit Court, Tuscumbia, Alabama.

Michaelson, Kyron C., 8337 Pennsylvania Avenue, South, Bloomington, Minnesota, convicted on June 25, 1973, United States Dsitrict Court, Third Division of Minnesota.

Milburn, Stoye W., Route 1, Box 694, Arvin, California, convicted on September 28, 1954, in the Circuit Court of Volusia County, Florida.

Monday, Daniel D., 425 Monroe Street, Apt. 35, Findlay, Ohio, convicted on July 22, 1970, in the Common Pleas Court, Wood County, Ohio; and on July 24, 1970, in the Common Pleas Court of Hancock County, Ohio.

Norcott, Mark C., 313 South 34th Street, Sioux City, Iowa, convicted on April 11, 1977, in the United States District Court, Northern Judicial District of Iowa.

Overstreet, Elgie S., Route 2, Box 535, Paducah, Kentucky, convicted on May 20, 1940, in the United States District Court, Bowling Green, Kentucky.

Paddock, Donald S., 2510 Berry Lane, East, Tacoma, Washington, convicted on February 10, 1977, in th Pierce County Superior Court, Washington.

Padgett, Samuel M., 564 East Magnolia Street, Groveland, Florida, convicted on May 21, 1962, in the Lake County Circuit Court, Tavares, Florida.

Pappas, William J. Jr., Route 3, Box 408-E, Texarkana, Texas, convicted on September 2, 1976, in the 211th Judicial District Court, Denton, Texas.

Payne, Louie R., 652 4th Street, Hollister, California, convicted on June 19, 1962; and on September 25, 1962, in the Superior Court of San Benito County, California.

Peal, Daniel L., 192 Twin Hill Way, Austell, Georgia, convicted on

December 15, 1975, in the Madison County Circuit Court of Alabama.

Penrod, James E., 7203 Homestead Place, Springfield, Virginia, convicted on March 27, 1978, in the United States District Court, Alexandria, Virginia.

Pintler, Mary Ann, 5694 North Highway 20, Oak Harbor, Washington, convicted on August 10, 1979, in the Superior Court, Island County, Washington.

Pipoly, Stephen S., 8748 West William Drive, Peoria, Arizona, convicted on January 6, 1978, in the Maricopa County Superior Court, Arizona.

Poe, Alex J., 7516 Tennessee Lane, Vancouver, Washington, convicted on February 7, 1974, in the Superior Court of Clark County, Washington.

Porter, Dean R., 2080 Miller Street, Lakewood, Colorado, convicted on April 22, 1949, in the Monmouth County District Court of New Jersey, and on December 12, 1951, in the Hennepin County District Court, Minneapolis, Minnesota.

Power, William J., 205 Skyline Boulevard, Oroville, California, convicted on February 23, 1978, in the Superior Court of Butte County, California.

Rakestraw, Lucious J., 1254 Princess Avenue, SW., Atlanta, Georgia, convicted on May 8, 1959, in the Fulton County Superior Court, Atlanta, Georgia.

Ramey, Bill G., P.O. Box 518, Grundy, Virginia, convicted on November 5, 1965, in the United States District Court, Western District of Abingdon, Virginia.

Randall, John J., 4315 7th Avenue, NE., Seattle, Washington, convicted on October 6, 1977, in the Superior Court of Santa Barbara, California.

Randolph, William H., P.O. Box 505 Powellton, West Virginia, convicted on August 25, 1970, in the Common Pleas Court, Lancaster, Ohio.

Ray, Clyde D., 1605 Anne Avenue, Opelika, Alabama, convicted on December 8, 1977, in the United States District Court, Middle District of Alabama.

Reburn, Phillip M., 1024 Lincoln Street, Hagerstown, Maryland convicted on September 25, 1970; and on December 6, 1968, in the Circuit Court of Washington County, Maryland.

Rhoda, Walter J., P.O. Box 594, Salem, Missouri, convicted on May 9, 1969, in the 28th Judicial Circuit Court, Dade County, Missouri.

Richardson, Charles R., 1501 East 21st, Odessa, Texas, convicted on October 25, 1978, in the 161st Judicial District Court, Ector County, Texas.

Risitano, Joseph, 947 Waverly Place, Baldwin, New York, convicted on December 9, 1946, in the Ft. George Wright Court, Washington; on May 11, 1947, in the United States District Court, Spokane, Washington; and on December 11, 1951, in the Kings County Court, Washington.

Roeder, Michael E., 1219 Madison, Newton, Kansas, convicted on August 11, 1964, in the District Court, Reno County, Kansas.

Rowe, Robert E., 2102 Alex Drive, Wilmington, Delaware, convicted on July 11, 1977, in the Superior Court of San Bernardino, California.

Roye, Marvin L.,
.O. Box 182, Granite Falls, Washington, convicted on September 30, 1977, in the Superior Court, Snohomish County, Washington.

Salter, Thomas J., 643 Pontzer Avenue, Saint Mary's Pennsylvania, convicted on July 14, 1978, in the Court of Common Pleas, McKean County, Pennsylvania.

Sanders, John E., 2925 West Carnuba, Tucson, Arizona, convicted on June 8, 1977, in the Superior Court of Pima County, Arizona.

Schaefer, Robert A., P.O. Box 148, Renton, Washington, convicted on March 17, 1972, in the United States District Court, Seattle, Washington.

Simonson, Donald D., 457 Valleyview, Route 1, Box 49–S, Wautoma, Wisconsin, convicted on April 11, 1973, in the Circuit Court of Wood County, Wisconsin.

Sleeper, Walter G., 1116 Mill Street, Midland, Michigan, convicted on February 26, 1965, in the Midland County Circuit Court, Michigan.

Smith, Dennis M., 15 Cherokee Lane, Columbia, Missouri, convicted October 23, 1978, in the Circuit Court of Boone County, Missouri.

Snyder, Lonnie E., RD #2, Shippensburg, Pennsylvania, convicted on March 9, 1965; and on June 12, 1966, in the Cumberland County Criminal Court, Carlisle, Pennsylvania.

Stewart, Charles R., 1223 East Oklahoma Street, Guthrie, Oklahoma, convicted on February 4, 1965, in the District Court, Oklahoma County, Oklahoma.

Stone, Donald L., 170 West Gates; Romeo, Michigan, convicted on April 4, 1967, in the Macomb County Circuit Court, Michigan; and on October 28, 1971, in the Jackson County Circuit Court, Michigan.

Stribling, Michael M., 1218 East Oakdale, Irving, Texas, convicted on May 15, 1978, in the 85th Judicial District Court, Brazos County, Texas.

Strong, David L., 7028 East Bayley, Apt. 301, Wichita, Kansas, convicted on September 18, 1974; and on May 24, 1977, in the Sedgwick County District Court, Kansas.

Stuart, Gernald L., 3515 Gillette Avenue, Bremerton, Washington, convicted on August 15, 1978, in the Kitsap County Superior Court, Washington.

Talero, James E., 1804 Tall Pines Circle, Columbia, South Carolina, convicted on September 14, 1973, in the General Sessions Court, Orangeburg, South Carolina; and on July 28, 1978, in the General Sessions Court, Richland County, South Carolina.

Terlitsky, Stanley J., 4410 Zuck Road, Erie, Pennsylvania, convicted on April 8, 1980, in the United States District Court, Erie, Pennsylvania.

Thiel, Stephen A., 204 Wisconsin Drive, Jefferson, Wisconsin, convicted on November 8, 1978, in the Circuit Court II, of Jefferson County, Wisconsin.

Thrasher, David R., Route 11, Box 57 Florence, Alabama, convicted on October 6, 1964, in the Colbert County Court, Tuscumbia, Alabama.

Tucker, Ervin A., Route 1, Box 354, Rineyville, Kentucky, convicted on November 23, 1976, in the United States District Court, Louisville, Kentucky.

Urbani, Gary D., 825 Vance, Bristol, Tennessee, convicted on May 8, 1975, in the Washington County Circuit Court of Virginia.

Urschel, Stanley R., 704 Erica Street, Escondido, California, convicted on November 21, 1972, in the United States District Court, San Diego, California.

Vanhoy, Tommy R., 1221 Pou Street, Albemarle, North Carolina, convicted on July 24, 1975, in the Stanly County Superior Court, North Carolina.

Velinskie, Edward A., 1055 East 32nd Street, Brooklyn, New York, convicted on December 3, 1963; and on March 21, 1969, in the Superior Court of Kings County, New York.

Verheyen, Steven J., Route 3, Lime Kiln Road, Green Bay, Wisconsin, convicted on January 9, 1979, in the Brown County Circuit Court, Branch V, Green Bay, Wisconsin.

Virgilli, Raymond E., 205 Chippewa Drive, Butler, Pennsylvania, convicted on January 7, 1980, in the United States District Court, Pittsburgh, Pennsylvania.

Voss, Jack B., 1773 Meadow Lark Lane, Sheridan, Wyoming, convicted on December 21, 1976, in the Circuit Court of Richmond, Virginia.

Warner, David L., Rural Route 1, Box 115, Millstadt, Illinois, convicted on October 16, 1973, in the Circuit Court of St. Clair County, Illinois; and on November 30, 1973, in the Circuit Court of St. Louis County, Illinois.

Warthen, Wayne A., P.O. Box 1561, Ardmore, Oklahoma, convicted on February 26, 1979, in the Eastern District of Oklahoma.

Watkins, James S., 312 West 2nd Street, Heavener, Oklahoma, convicted on February 3, 1967, in the Superior Court, State of California Youth Authority.

Weldon, Aubrey L. Jr., Route 1, Box 966, Cusseta, Alabama, convicted on June 8, 1973, in the Circuit Court of Lee County, Alabama.

Wells, Richard W., 5837 West Turney Avenue, Phoenix, Arizona, convicted on July 15, 1974, in the Superior Court of Maricopa County, Arizona.

Werner, Roy L., 1933 Broadway, Hoquiam, Washington, convicted on February 15, 1974, in the Superior Court of Grays County, Washington.

Westenburg, Charles E., 12055 East Broadway, Tucson, Arizona, convicted on December 3, 1979, in the United States District Court, Tucson, Arizona.

Weterholt, Sheldon K., 5006 East Boulevard Drive, Flint, Michigan, convicted on May 9, 1956, in the Criminal Court of Shelby County, Tennessee.

Whitmire, Jerry W., Route 1, Box 35, Silsbee, Texas, convicted on December 15, 1966, in the Superior Court of Lewis County, Washington; and on October 14, 1971, in the Superior Court of Cowlitz County, Washington.

Whitt, Jerry C., 903 Rolling Green Circle, Round Rock, Texas, convicted on June 22, 1967, in the District Court of Travis County, Texas.

Williams, James E., Route 1, Box 35, Gore Springs, Mississippi, convicted on June 28, 1977, in the Northern Judicial District of Mississippi.

Wilmouth, Donald R., P.O. Box 5, Soper, Oklahoma, convicted on September 27, 1977, in the Lamar County District Court, Sixth Judicial District of Texas.

Woods, Richard L., G-8373 North Dort Highway, Mt. Morris, Michigan, convicted on January 24, 1955, in the Circuit Court of Genesee County, Michigan.

Worthman, Martin R., P.O. Box 301, Shawnee, Ohio, convicted on September 23, 1977, in the Muskingum County Court of Common Pleas, Ohio.

Compliance With Executive Order 12044

This notice of granting of relief does not meet the Department's criteria for significant regulations as set forth in the Federal Register of November 8, 1978.

Signed: September 8, 1981.

G. R. Dickerson,

Director.

[FR Doc. 81-27148 Filed 9-17-81; 8:45 am]

BILLING CODE 4810-31-M

Customs Service

[TMK-2-CO:R:E:E]

"BULGARI"; Application for Recordation of Trade Name

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "BULGARI" or printed with a Roman u *i.e.*, "BULGARI," used by Ditta Sotirio Bulgari di Constantino e Giorgio Bulgari S.A.S., a partnership organized under the laws of Italy, located at 10 Via dei Condotti, Rome, Italy.

The application states that the trade name is used in connection with a wide variety of fine watches, jewelry, ornamental works and artwork made of precious metal and precious or semi-precious stones and various other items made of precious metals, manufactured in Italy. The application states further that Bulgari Distribuzione S.P.A., 6 Via Gregoriana, Rome, Italy and Bulgari S.P.A., 10 Via Dei Condotti, Rome, Italy are authorized to use the trade name. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person, in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received no later than October 19, 1981.

Notice of the action taken on the application for recordation of this trade name will be published in the Federal Register.

Dated: September 15, 1981.

A. Piazza,

Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 81-27299 Filed 9-17-81; 8:45 am]

BILLING CODE 4810-22-M

Fiscal Service

[Dept. Circ. 570, 1981 Rev., Supp. No. 5]

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 $3,501,000 has been established for the company.

Name of Company

American Centennial Insurance Company

Business Address

Post Office Box 1319R, 55 Madison Avenue, Morristown, New Jersey 07960

Incorporated in the State of

Delaware

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 so 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 annotate their reference copies of the Treasury Circular 570, 1981 Revision, at page 33963 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: September 14, 1981.

W. E. Douglas,

Commissioner.

[FR Doc. 81-27151 Filed 9-17-81; 8:45 am]

BILLING CODE 4810-35-190-M

[Dept. Circ. 570, 1981 Rev., Supp. No. 34]

MGIC Indemnity Corporation; Surety Companies Acceptable on Federal Bonds; Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to MGIC Indemnity Corporation, Milwaukee, Wisconsin, under Sections 6 to 13 of Title 6 of the United States Code, as an acceptable surety on Federal bonds, is hereby terminated, effective June 30, 1981.

The company was last listed as an acceptable surety on federal bonds at 45 FR 14507, July 1, 1980.

With respect to any bonds currently in force with MGIC Indemnity Corporation, bond-approving officers of the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may be directed to the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226, Telephone (202) 634-5010.

Dated: September 11, 1981.
W. E. Douglas,
Commissioner, Bureau of Government Financial Operations.
[FR Doc. 81-27293 Filed 9-17-81; 8:45 am]
BILLING CODE 4810-35-M

Office of the Secretary

[Dept. Circular Public Debt Series No. 29-81]

Treasury Notes of September 30, 1985 Series J-1985

September 11, 1981.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the second Liberty Bond Act, as amended, invites tenders for approximately $3,250,000,000 of United States securities, designated Treasury Notes of September 30, 1985, Series J-1985 (CUSIP No. 912827 MJ 8). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated September 30, 1981, and will bear interest from that date, payable on a semiannual basis on March 31, 1982, and each subsequent 6 months on September 30 and March 31, until the principal becomes payable. They will mature September 30, 1985, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, September 23, 1981. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, September 22, 1981.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be

notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Wednesday, September 30, 1981. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, September 28, 1981. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 81-27210 Filed 9-17-81; 8:45 am]
BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Wage Committee; Meetings

Under the provisions of section 10 of Pub. L. 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, October 1, 1981
Thursday, October 15, 1981
Thursday, October 29, 1981
Thursday, November 12, 1981
Tuesday, November 24, 1981
Thursday, December 10, 1981
Tuesday, December 22, 1981

The meetings will convene at 2:30 p.m. and will be held in Room 815A, Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC 20420.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, as amended by Pub. L. 94-409, meetings may be closed to the public when they are concerned with matters listed under section 552b, Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)), and those involving trade secrets and commerical or financial information obtained from a person and privileged or confidential (5 U.S.C. 552b(c)(4)).

Accordingly, I hereby determine that all portions of the meetings cited above

will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention.

Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 11754, 810 Vermont Avenue, NW, Washington, DC 20420.

Dated: September 11, 1981.

Robert P. Nimmo,

Administrator.

[FR Doc. 81-27142 Filed 9-17-81; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 181
Friday, September 18, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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CIVIL AERONAUTICS BOARD.

[M-329, Amdt 4; September 15, 1981]

Notice of addition and closure of item to the September 15, 1981 Board Meeting

TIME AND DATE: 9:30 a.m., September 15, 1981.

PLACE: Room 1027 (open) room 1012 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 25. U.S.-Scandinavia Discussions. (BIA).

STATUS: Items 1-22 (open) Items 23-25 (closed).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1417-81 Filed 9-16-81; 3:49 pm]

BILLING CODE 6320-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda [1]

TIME AND DATE: 10 a.m., Thursday, September 17, 1981.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

1. *Enforcement Matter, OS #994*
The Commission will consider an enforcement matter under the Consumer Product Safety Act. Closed under exemption 10: involvement in agency adjudication.

2. *Enforcement Matter, OS #997*
The Commission will consider an enforcement matter under the Consumer Product Safety Act. Closed under exemption 10: involvement in agency adjudication.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 300, 1111 18th Street, NW., Washington, DC 20207; Telephone (202) 634-7700.

[S-1415-81 Filed 9-16-81; 2:42 pm]

BILLING CODE 6355-01-M

[1] Agenda revised to change the order of the two items.

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

September 14, 1981.

TIME AND DATE: 10 a.m., Wednesday, September 23, 1981.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following cases:

1. Secretary of Labor, MSHA on behalf of Michael Dunmire and James Estle v. Northern Coal Company, Docket Nos. WEST 80-313-D and WEST 80-367-D.
2. Secretary of Labor, MSHA v. Mettiki Coal Corporation, Docket No. YORK 80-140.

There will be a Commission meeting following the oral arguments. The cases considered will be published at a later date.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-1410-81 Filed 9-16-81; 10:43 am]

BILLING CODE 6820-12-M

4

FEDERAL RESERVE SYSTEM.

Board of Governors

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 44123, Wednesday, September 2, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 3:30 pm, Tuesday, September 15, 1981.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Proposed cost-saving initiatives for Federal Reserve Banks. [This matter was originally announced for a meeting on September 8, 1981.]

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: September 16, 1981.

James McAfee,

Assistant Secretary of the Board.

[S-1414-81 Filed 9-16-81; 12:46 pm]

BILLING CODE 6210-01-M

5

[USITC SE-81-28]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, September 24, 1981.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 731-TA-3 (Sugar and Sirups from Canada)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1408-81 Filed 9-16-81; 8:53 am]

BILLING CODE 7020-02-M

6

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

Role of the Special Library in Nationwide Network and Cooperative Programs

DATE AND TIME:

Monday, September 21, 1981, 9 a.m.-5:15 p.m., Evening Session: 8:15 p.m.-9:45 p.m.
Tuesday, September 22, 1981, 8:30 a.m.-12:15 p.m.

PLACE: Adams Room, Washington Hilton Hotel, 1919 Connecticut Avenue, N.W.

STATUS: Open.

MATTERS TO BE DISCUSSED: Preparation of the Final Report.

September 15, 1981.
Douglas S. Price,
Deputy Director, NCLIS.
[S-1409-81 Filed 9-16-81; 9:26 am]
BILLING CODE 7527-01-M

7

NATIONAL RAILROAD PASSENGER CORPORATION.

Board of Directors Meeting

In Accordance with Rule 4(a) of Appendix A of the Bylaws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on Friday, September 25, 1981.

A. The meeting will be held on September 25, 1981, at the Ritz Carlton Hotel, 160 East Pearson Street, Chicago, Illinois, at 9:00 a.m.

B. The meeting will be open to the public at 10:00 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation—Meeting of the Board of Directors—September 25, 1981

(9:00) *Closed Session*
1. Internal Personnel Matters
2. Litigation Matters

(10:00) *Open Session*
3. Approval of Minutes of Regular Meeting of August 26, 1981
4. Election of Corporate Officers
5. Approval of Amendments to Retirement Income Plan
6. Approval of Pennsylvania Liquor License
7. Commuter Corporation Formation
8. Route Structure: The Cardinal/The Midwesterner
9. Commitment Approval Requests:
81-114 Station Relocation—Grand Forks, North Dakota
81-115 Station Rehabilitation and Rail Connection—San Antonio, Texas
81-116 Lease Renewal—Suburban Station, Philadelphia, Pennsylvania
10. Board Committee Reports: Finance
11. President's Report
12. New Business
13. Adjournment

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Corporate Secretary at (202) 383-3754.

September 16, 1981.
Sandra Spence,
Corporate Secretary.
[S-1411-81 Filed 9-16-81; 10:53 am]

8

NATIONAL TRANSPORTATION SAFETY BOARD.

[N-AR 81-34]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 45851, September 15, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, September 22, 1981.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below:

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Safety Effectiveness Evaluation* of the Federal Highway Administration's Non-Interstate Resurfacing, Restoration, and Rehabilitation Program.
2. *Special Investigation Report:* Eight New York City Transit Authority Subway Train Fires with Evacuation of Passengers, and Recommendation to: the New York City Transit Authority; Urban Mass Transportation Administration; Secretary, Department of Transportation; and the Governor, State of New York.
3. *Special Investigation Report:* Guardrails and Bridge Rails on Highway Bridges Over the Northeast Corridor Rail Service and *Recommendation* to the Federal Highway Administration.
4. FY 1982 Safety Objectives Program.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202-382-6525.

September 16, 1981.
[S-1416-81 Filed 9-16-81; 3:49 pm]
BILLING CODE 4910-58-M

9

[OP0401]

PAROLE COMMISSION.

National Commissioners (the Commissioners presently maintaining offices at Bethesda, Md., Headquarters)

TIME AND DATE: 9:30 a.m., Friday, September 18, 1981.

PLACE: Room 420-F; One North Park Building; 5550 Friendship Blvd.; Bethesda, Maryland 20015.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

CHANGES IN THE MEETING: On September 11, 1981, the Commission determined that the above meeting date be advanced to 9:30 a.m. on Thursday, September 17, 1981, for consideration of case referrals from Regional Commissioners. The above change is being announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, Parole Commission (301) 492-5926.

[S-1412-81 Filed 9-16-81; 11:03 am]
BILLING CODE 4410-01-M

10

[OP0401]

PAROLE COMMISSION.

National Commissioners (the Commissioners presently maintaining offices at Bethesda, Maryland, Headquarters).

TIME AND DATE: 9:30 a.m., Friday, September 25, 1981.

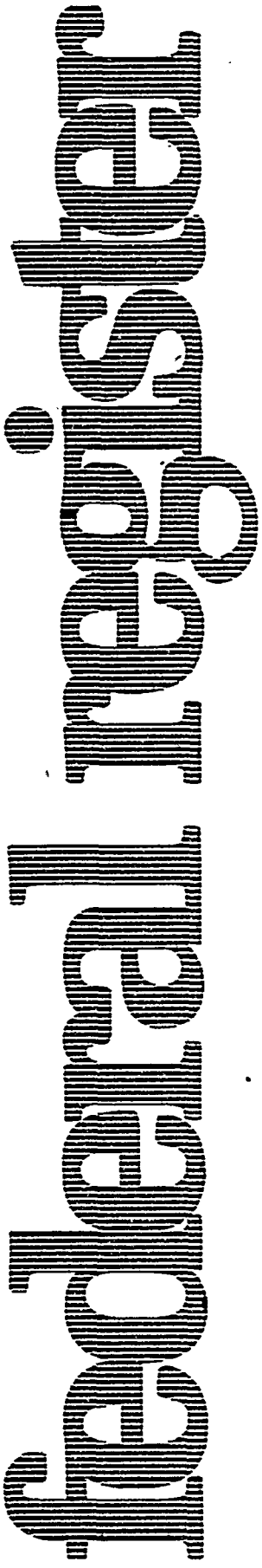
PLACE: Room 420-F; One North Park Building, 5550 Friendship Boulevard, Bethesda, Maryland 20015.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 10 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, Parole Commission (301) 492-5926.

[S-1413-81 Filed 9-16-81; 11:03 am]
BILLING CODE 4410-01-M



Friday
September 18, 1981

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

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.

Florida: GA81-1222	May 1, 1981.
Georgia: GA81-1222	May 1, 1981.
Illinois: IL81-2053	Aug. 14, 1981.
Indiana: IL81-2053	Aug. 14, 1981.
Iowa: IA80-4041	Aug. 1, 1980.
Kentucky: KY81-1277	Aug. 21, 1981.
Michigan: IL81-2053	Aug. 14, 1981.
Minnesota:	
IL81-2053	Aug. 14, 1981.
MN81-2047	July 17, 1981.
New York:	
IL81-2053	Aug. 14, 1981
NY81-3030	May 1, 1981.
North Carolina: GA81-1222	May 1, 1981.
Ohio: IL81-2053	Aug. 14, 1981.
Oregon: OR81-5127	July 6, 1981
Pennsylvania:	
IL81-2053	Aug. 14, 1981.
PA80-3074	Dec. 12, 1980.
PA81-3027	July 17, 1981.
PA81-3029	July 10, 1981.
PA81-3044	Aug. 7, 1981.
PA81-3058	Aug. 28, 1981.
South Carolina: GA81-1222	May 1, 1981.
Virginia: GA81-1222	May 1, 1981.
Washington, D.C.: GA81-1222	May 1, 1981.
Wisconsin: IL81-2053	Aug. 14, 1981.
Connecticut: CT81-3032	May 15, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Nevada: NV81-5111 (NV81-5152)..... May 1, 1981.
New York: NY80-3049 (NY81-3064..... Aug. 29, 1980.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 11th day of September 1981.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION NO. GA81-1222 - MOD. #1 (46 FR 24813 - May 1, 1981) Georgia, North Carolina, South Carolina, Virginia, Washington, D. C. and Florida, all counties on the Atlantic Coast west to the Aucilla River and all tributory Waterways					
Change: Footnote:					
a. Six paid holidays, A through F, plus vacation contribution of 7% of straight time pay of all hours worked					
DECISION NO. IL81-2053 - MOD. #1 (46 FR 41320 - August 14, 1981) Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin					
Change:					
Tug Engineers Operators	$16 22		1 05	h	
Tug Operators on Launch	15.76		1 05	h	

Add:

h. 9 paid holidays: A through F plus Washington's Birthday, Veteran's Day and Association Day; 6½ days vacation with pay for 104 days service, one additional day of vacation with pay for each of the next 3 periods of 26 days of service, and for 208 days or over of service 13 days of vacation with pay, all in one calendar year. Employees not qualifying for vacation as set forth above, will receive one half day's vacation with pay for each full 12 days of service in one calendar year.

Modification Page 2

DECISION NO. IA80-4041, Mod. #5,
45 FR 51408 - August 1, 1980
Black Hawk County, Iowa
Building Construction

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Laborers:					
Group 1	$10.17	.90	.55		.05
Group 2	10 32	.90	.55		.05
Group 3	10.42	.90	.55		.05
DECISION NO. KY81-1277 - MOD. #1 (46 FR 42601 - August 21, 1981) Hardin, Jefferson, & Meade Counties, Kentucky					
Change:					
Plasterers	$13.35				
Plumbers & Pipefitters					
Area I - Jefferson County Pipefitters	16.71	.95	1.69		.12
Area II - Hardin (northern portion of County up to but not including Elizabethtown) & Meade Pipefitters	17.31	.95	1.69		.12
Area III - Remainder of Hardin County Pipefitters	17.56	.95	1.69		.12
DECISION No. MN81-2047 Mod # 1 (46 FR 37182 dated July 17, 1981) Benton, Sherburne & Stearns Cos. Minnesota					
CHANGE:					
ELECTRICIANS:					
Benton & Stearns Cos.; Twps. of Haven, Palmer, Santiago, Becker, & Clearlake in Sherburne Co.					
Jobs under $75,000	$12.29	.70	3% + .44	10⅔%	.07
Jobs over $75,000	14 53	.70	3% + .44	10⅓%	.07

DECISION NO. NY81-3030 - Mod. #2
(46 FR 24850 - May 1, 1981)
Cattaraugus, Chautauqua, & Erie Counties, New York

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS	14.60	1.32	1.40		.07
CARPENTERS					
Chautauqua County & Cattaraugus County (Remainder of County)					
Carpenters, Building	12.06	.90	1.46		.02
Millwrights & Piledrivers	12.31	.90	1.46		.02
Diver Tenders	12.56	.90	1.46		.02
ELECTRICIANS					
Cattaraugus County (Leon & Dayton Townships) & Chautauqua County	14.20	1.15	3%+1.75		½%
ELEVATOR CONSTRUCTOR	15.24	1.345	.95	b+c	.035
ELEVATOR CONSTRUCTOR HELPER	10.67	1.345	.95	b+c	.035
ELEVATOR CONSTRUCTOR HELPER PROBATIONARY	7.62				
PAINTERS					
Erie County (North of White Haven Rd. on Grand Island)					
Brush	11.91	1.80	1.90		.01
Spray Mastic, Steel, Steeple Jack, Swing Scaffold, Boatswain Chair using window jack on life belts, steel tanks, smoke stacks, chruch steeples or flag poles, sandblasting & waterblasting	12.91	1.80	1.90		.01
Bridges	13.905	1.80	1.90		.01
Erie County (Remainder of County), Chautauqua County (Townships of Dunkirk, Portland, Ponifret, Sheridan, Arkwright, Hanover, & Villanova), & Cattaraugus County (Townships of Perrysburg, Dayton, Persia, Otto, Ashford, Yorkshire, East Otto, & Machias					
Base	13.00	1.63	1.40		.11
Bridges 35' in depth or 35' from road level	15.415	1.63	1.40		.11
Steel, tanks, towers, stacks, flag poles, bosun chair, radio & TV towers	13.75	1.63	1.40		.11
Taping	13.50	1.63	1.40		.11

DECISION NO. NY81-3030 - Mod. #2 (Con't)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
PAINTERS (Cont'd)					
Cattaraugus County (Townships of Leon, Conewango, Randolph, S. Valley, New Albion & Napoli), Chautauqua County (Remiander of County)					
Brush	11.30	.95	.70		.01
Structural Steel, Bridge, Tanks and Stacks	12.55	.95	.70		.01
Spray, Steam cleaning, Sandblasting & Toxic Coatings	11.95	.95	.70		.01
Swing Scaffold, Bosun Chair, Paperhangers, Taping	11.55	.95	.70		.01
Roller	11.30	.95	.70		.01
Cattaraugus County (Remainder of County)					
Brush	10.95	.90	1.25		.01
Steel above 20' Ladder or Scaffold over 30' high, Spray, Wall covering Hanging	11.55	.90	1.25		.01
Bridges	12.20	.90	1.25		.01
PLUMBERS & STEAMFITTERS					
Cattaraugus County	14.30	.98	.62	.30	
Chautauqua County (Remainder of County) & Erie County	15.06	1.03	1.63		.08
SHEET METAL WORKERS					
Erie County	15.07	1.36	1.16		.10
SPRINKLER FITTERS					
Erie County	14.69	.95	2.65		.06
STEAM FITTERS					
Erie County	15.14	2.50	1.73		.19
LABORERS, Building					
Erie County					
Basic	11.795	1.75	1.56		.15
Foundation Laborers (over 8' in depth), Hod Carriers, Plaster tender, Plaster Scaffold Bldr., Pneumatic, Gas, Electric Tool					
Opr. & Steel Bruners	11.895	1.75	1.56		.15
Mortar Mixer	11.945	1.75	1.56		.15
Tool Operator over 8' in depth	11.995	1.75	1.56		.15

DECISION NO. NY81-3030 - Mod. #2 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LABORERS, Building (Cont'd)					
On Swing Scaffold, Blaster, Plumbing Laborers, Wagon Drill Operator, Bottom Man	12.045	1.75	1.56		.15
Top Man, Wreckers	11.795	1.75	1.56		.15
Chautauqua County, Cattaraugus County (Except the city of Gowanda & Twp. of Perrysburg)					
Laborers	9.88	.90	1.10		
Blasters, Curb & Form Setters, (Steel, Stone & Granite), Nozzlemen (gunite, seeding & sandblasting) & Pipelayers	10.13	.90	1.10		
work 40' and up	10.03	.90	1.10		
LABORERS, Heavy & Highway					
Erie County					
CLASS A	10.995	1.75	1.56		.15
CLASS B	11.195	1.75	1.56		.15
CLASS C	11.395	1.75	1.56		.15
CLASS D	11.595	1.75	1.56		.15
LABORERS, Free Air Tunnel					
Erie County					
Steel erectors, piledrivers, riggers	12.995	1.75	1.56		.15
Blasters, cement finishers, ironmen, miners, heading driller	12.745	1 75	1.56		.15
Powder Monkey	12.345	1.75	1.56		.15
Side or roofbolt driller, conveyor men, block layers, rod men, caulkers, miners helper, track men, nippers, burners, derail men, electrical cable men, hosemen, groutmen, gravel men, bottom bell, form workers, movers, shaft men	12.245	1.75	1.56		.15
Top Bell	11.745	1.75	1.56		.15
Mole nipper, top laborers	11.495	1.75	1.56		.15

DECISION NO. NY81-3030 - Mod. #2 (Cont'd)

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Electrical Overhead & Underground Distrubution Work					
Journeyman Lineman & Technician	12 00	1.40	3%+1.00	a	
Cable Splicer	16.00	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.80	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.60	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	10.20	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.00	1.40	3%+1.00	a	
All Overhead Transimission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.80	1.40	3%+1 00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.42	1 40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.04	1.40	3%+1 00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.73	1.40	3%+1.00	a	
Driver Mechanic, Groundman-Experienced	10.35	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technicians	14 55	1.40	3%+1.00	a	
Cable Splicer	16 005	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	13.095	1.40	3%+1.00	a	

DECISION NO. NY81-3030 - Mod. #2 (Cont'd)

LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver:	11.64	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	12.36	1.40	3%+1.00	a	
Driver Mechanic, Groundman-Experienced	10.91	1.40	3%+1.00	a	
All Pipe type Cable Installations, Maintenance Jobs or Projects					
Journeyman Lineman	14.55	1.40	3%+1 00	a	
Certified Lineman Welder	15.27	1.40	3%+1.00	a	
Cable Splicer	16.005	1.40	3%+1.00	a	
Groundman Equipment Operator	14.55	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	12.36	1.40	3%+1.00	a	
Groundman Truck Drivers	11.64	1.40	3%+1.00	a	
Groundman	10.91	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

DECISION NO. OR81-5127 - Mod #3 (46 FR 35019 - July 6, 1981) Statewide Oregon	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE: TILE SETTERS as contained in Mod #2 to read: "TILE SETTERS: Area 2"	$15.43	1.10	.95		.10
DECISION NO. PA80-3074 MOD. NO. 8 (45 FR 81981 - December 12, 1980) Clinton, Centre, Huntingdon, Fulton & Mifflin Counties, Pennsylvania					
CHANGE:					
Asbestos Workers Zone 2	$14.01	1.12	.90		.02
Elevator Constructors	12.84	1.345	1.085	a+b	.035
Elevator Constructors Helpers	70%JR	1.345	1.085	a+b	.035
Elevator Constructors Helpers (Prob.)	50%JR				
Electricians Zone 2	13.56	.65	3%+.67		1/4%
Glaziers Zone 1	13.44	1.12	1.55	1.29	.02
ADD: To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					

Modification Page 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION NO. PA81-3027 MOD. NO. 2 (46 FR 37212 - July 17, 1981) Franklin County, Pennsylvania					
CHANGE: Asbestos Workers	$14.01	1.12	.90		.02
ADD: To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					
DECISION NO. PA81-3029 MOD. NO. 1 (46 FR 35891 - July 10, 1981) Blair County, Pennsylvania					
CHANGE: Asbestos Workers	$15.06	1.00	2.27		
Carpenters & Soft Floor Layers	12.25	6½%	8%	10%	
Glaziers	13.44	1.12	1.55	1.29	.02
ADD: To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					
DECISION NO. PA81-3044 MOD. NO. 2 (46 FR 40477 - August 7, 1981) Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford and Venango Counties, Pennsylvania					
CHANGE: Ironworkers Zone 3	$14.50	1.86	1.51		.25

Modification Page 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION NO. PA81-3058 MOD. NO. 2 (46 FR 43596 - August 28, 1981) Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, & York Counties, Pennsylvania					
CHANGE: Ironworkers: Structural, Oranmental & Reinforcing	$14.265	1.49	1.46		.045
DECISION NO. CT81-3032 - MOD. #4 (46 FR 27040 - May 15, 1981) Hartford, Middlesex, New Haven, New London and Tolland Counties, Connecticut					
CHANGE: Plumbers; Steamfitters: Area 5	$17.17	.80	1.95	r	.10

SUPERSEDEAS DECISION

STATE: Nevada

COUNTIES: Statewide (does not include the Nevada Test Site and Tonopah Test Range, and Highway Construction in Douglas County), Nevada

DECISION NUMBER: NV81-5152

DATE: Date of Publication

Supersedes Decision No. NV81-5111 dated May 1, 1981, in 46 FR 24837

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS:*					
Area 1	$18.26	$1.28	$1.52		
Area 2	16.11	.77	1.52		
Area 3	20.11	1.25	1.45		.11
BOILERMAKERS	17.61	1.30	1 25	1.00	.04
BRICKLAYERS; STONEMASONS:*					
Area 1	15.57	.90	.60		.06
Area 2	15.88	1.10	.75		.04
BRICK HOD CARRIERS:*					
Area 1	13.11	1.10	1.30		.10
CARPENTERS:*					
Area 1:					
Carpenters	15.31	1.05	1.60		.10
Drywall Installer	15.48	1.05	1.60		.10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	15.46	1.05	1.60		.10
Lathers	15.48	1.05	1.60		.10
Millwrights	16.31	1.05	1.60		.10
Piledrivermen	15.51	1.05	1.60		.10
Area 2:					
Carpenters	14.30	1.25	1.81	1.20	.11
Drywall Installer	14.55	1.25	1.81	1.20	.11
Floor Layers; Patent Scaffold Erectors; Power Saw Operators; Shingler	14.45	1.25	1.81	1.20	.11
Millwrights	14.90	1.25	1.81	1.20	.11
Piledrivermen	14.55	1.25	1.81	1.20	.11
CEMENT MASONS:*					
Area 1:					
Cement Masons	14.50	1.50	1.50		.13
Cement Floor Finishing Machine and Color Work	14.85	1.50	1.50		.13
*See AREA Descriptions - Page 3					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CEMENT MASONS:* (Cont'd)					
Area 2:					
Cement Masons	$12.55	$1.25	$1.10	$2.00	.10
Mastic, Magnesite and all Composition Masons	12.80	1.25	1.10	2.00	.10
Troweling Machine; Grinder Operator and Kelly Float	13.05	1.25	1.10	2.00	.10
Area 3:					
Cement Masons	14.30	1.25	1.10	2.00	.10
Mastic, Magnesite and all Composition Masons	14.55	1.25	1.10	2.00	.10
Troweling Machine; Grinder Operator and Kelly Float	14.80	1.25	1.10	2.00	.10
ELECTRICIANS:*					
Area 1:					
Electricians; Technicians	18.36	.98	3%+2.55		.08
Cable Splicers	18.69	.98	3%+2.55		.08
Area 2:					
Electricians; Technicians	19.63	1.09	3%+2.09		.14
Cable Splicers	21.59	1.09	3%+2.09		.14
Area 3:					
Electricians; Technicians	20.63	1.09	3%+2.09		.14
Cable Splicers	22.59	1.09	3%+2.09		.14
ELEVATOR CONSTRUCTORS:*					
Area 1:					
Elevator Constructors	16.62	1.195	.95	a	.03
Helpers	11.63	1.195	.95	a	.03
Probationary Helpers	8.31				
Area 2:					
Elevator Constructors	19.99	1.195	.95	a	.035
Helpers	13.99	1.195	.95	a	.035
Probationary Helpers	9.995				
GLAZIERS:*					
Area 1	19.23	.75	.40		.08
Area 2	12.931	.83	1.85	1.584	
*See AREA DESCRIPTIONS - Page 3					

AREA DESCRIPTIONS

ASBESTOS WORKERS:
Area 1: Clark, Esmeralda, Lincoln, and Nye Counties
Area 2: Elko, Eureka, and White Pine Counties
Area 3: Remaining Counties

BRICKLAYERS; STONEMASONS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)
Area 2: Remaining Counties and Nye County (north of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)

BRICK HOD CARRIERS:
Area 1: Statewide (excluding Clark, Esmeralda, and Lincoln Counties, Nye County (south of Highway #6))

CARPENTERS:
Area 1: Clark County; Esmeralda County (south of Highway #6); Lincoln County; Nye County (south of Highway #6)
Area 2: Remaining Counties; Esmeralda and Nye Counties (north of Highway #6)

CEMENT MASONS:
Area 1: Clark, Lincoln, and Nye Counties
Area 2: Remaining Counties (excluding Lake Tahoe Area)
Area 3: Lake Tahoe Area

ELECTRICIANS:
Area 1: Clark and Lincoln Counties; Nye County (south of Mt. Diablo Base Line)
Area 2: Remaining Counties; Nye County (north of Mt. Diablo Base Line, excluding Lake Tahoe Area)
Area 3: Lake Tahoe Area

ELEVATOR CONSTRUCTORS:
Area 1: Nevada east of 118° longitude and south of 39° north latitude
Area 2: Nevada west of 118° longitude

GLAZIERS:
Area 1: Clark, Esmeralda, Lincoln, and Nye Counties
Area 2: Remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
IRONWORKERS:*					
Area 1:					
Fence Erectors; Machinery Movers; Ornamental; Reinforcing; Riggers; Structural	$13.10	.90	$1.45		.10
Area 2:					
Fence Erector	13.11	1.39	3.22	2.15	.07
Ornamental; Reinforcing; Structural	14.00	1.39	3.22	2.15	.07
LATHERS:*					
Area 1	18.07				.01
LINE CONSTRUCTION WORKERS:*					
Area 1:					
Groundman	15 65	.98	3%		3/4%
Line Equipment Operators	18 78	.98	3%		3/4%
Linemen	20.87	.98	3%		3/4%
Cable Splicers	21.91	.98	3%		3/4%
Area 2:					
Groundman	14.72	1.09	3%+2.09		
Line Equipment Operators	17 67	1.09	3%+2.09		
Lineman; Technician	19 63	1.09	3%+2 09		
Cable Splicers	21 59	1.09	3%+2.09		
Area 3:					
Groundman	16.22	1.09	3%+2.09		
Line Equipment Operators	19.17	1.09	3%+2 09		
Linemen; Technician	21.13	1.09	3%+2.09		
Cable Splicers	23.09	1.09	3%+2.09		
MARBLE SETTERS:*					
Area 1	15.57	.90	.60		
Area 2	15.10	1.10	.75		
MARBLE, TERRAZZO, and TILE FINISHERS:*					
Area 1	12.14	.90	.60		
Area 2	8.89	1.10	.75		
MASON TENDERS:*					
Area 1	13.87	1.08	1.50		

*See AREA DESCRIPTIONS - Page 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
PAINTERS:*					
Area 1:					
Brush; Roller	$17.34	.80	.70		.06
Paperhangers; Spray; Steel; Swing Stage; Sandblasters; Sign; Structural Steel; Taper	17.69	.80	.70		.06
Buffing Steel; Sandblaster, Structural Steel	18.04	.80	.70		.06
Steeplejack	19.09	.80	.70		.06
Area 2:					
Brush and Roller	16.54	.84	.75		.02
Spray; Taper; Paperhangers; Sandblaster	17.04	.84	.75		.02
Spray - Swing Stage up to 40 feet; Spray - Steel	17.29	.84	.75		.02
Brush - Swing Stage, up to 40 feet; Brush - Steel	16.79	.84	.75		.02
PLASTER HOD CARRIERS:*					
Area 1:					
Plaster Hod Carrier serving Plasterers	13.95	1.10	1.30		
Plaster Hod Carrier working on any type of Gun except TM-30	14.55	1.10	1.30		
Plaster Hod Carrier mixing on TM-30 Machine	14.80	1.10	1.30		
PLASTER TENDERS:*					
Area 1	15.42	1.06	1.58		.11
PLASTERERS:*					
Area 1	15.12	1.50	1.50		.13
Area 2	14.47	1.25	1.50		.05

*See AREA DESCRIPTIONS - Page 6

AREA DESCRIPTIONS

IRONWORKERS:
Area 1: Elko, Eureka, White Pine Counties
Area 2: Remaining Counties

LATHERS:
Area 1: Statewide (excluding Clark County; Esmeralda County (south of Highway #6); Lincoln County; Nye County (south of Highway #6))

LINE CONSTRUCTION WORKERS:
Area 1: Clark, and Lincoln Counties; Nye County (south of Mt. Diablo Base Line)
Area 2: Remaining Counties and Nye County (north of Mt. Diablo Base Line) (excluding Lake Tahoe Area)
Area 3: Lake Tahoe Area

MARBLE MASONS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)
Area 2: Remaining Counties and Nye County (north of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)

MARBLE, TERRAZZO, and TILE FINISHERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)
Area 2: Remaining Counties and Nye County (north of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)

MASON TENDERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of Highway #6)

PAINTERS:
Area 1: Clark, Esmeralda, Lincoln, and Nye Counties
Area 2: Remaining Counties including Lake Tahoe Area

PLASTER HOD CARRIERS:
Area 1: Statewide excluding Clark, Esmeralda, and Lincoln Counties; Nye County (south of Highway #6)

PLASTER TENDERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of Highway #6)

PLASTERERS:
Area 1: Clark, Lincoln, and Nye Counties
Area 2: Remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
PLUMBERS; Steamfitters:*					
Area 1	$19.35	$1.25	$2.50		.08
Area 2	17.04	1.23	1.25	2.10	.20
PLUMBERS (Utility):*					
Area 1	17.04	1.23	1.25	2 10	.20
ROOFERS:*					
Area 1	19.30	1.00			
Area 2	18.52	1.00	1.00		.05
SHEET METAL WORKERS:*					
Area 1	20.22	1.20	1.92		.19
Area 2	15.63	1.30	2.36	1.56	.14
SOFT FLOOR LAYERS:*					
Area 1	17.16	1.11			.25
Area 2	15.84	.84	.20	.33	.07
SPRINKLER FITTERS	19.56	.95	1.40		.08
TERRAZZO WORKERS; TILE SETTERS:*					
Area 1	15.57	.90	.60		.06
Area 2	15.10	1.10	.75		.01

*See AREA DESCRIPTIONS - Page 8

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTE:
a. Employer contributes 8% basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven 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-Friday after Thanksgiving Day; G-Christmas Day

AREA DESCRIPTIONS

PLUMBERS; Steamfitters:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of Highway #6, excluding City of Tonopah)
Area 2: Remaining Counties and Nye county (north of Highway #6, including City of Tonopah)

PLUMBERS (Utility):
Area 1: Statewide (except Clark, Esmeralda, and Lincoln Counties, Nye County (south of Highway #6, excluding the City of Tonopah))

ROOFERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of Highway #6)
Area 2: Remaining Counties and Nye County (north of Highway #6)

SHEET METAL WORKERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of the First Standard Parallel Line north of the 38th Parallel); White Pine County
Area 2: Remaining Counties and Nye County (north of the First Standard Parallel Line north of the 38th Parallel)

SOFT FLOOR LAYERS:
Area 1: Clark, Esmeralda, Lincoln, and Nye Counties
Area 2: Remaining Counties including Lake Tahoe Area

TERRAZZO WORKERS; TILE SETTERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)
Area 2: Remaining Counties and Nye County (north of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Clark, Esmeralda, and Lincoln Counties; Nye County (south half, including Highway #6):					
/					
Group 1	$12.75	$1.06	$1.58	.15	
Group 2	12.96	1.06	1.58	.15	
Group 3	13.06	1.06	1.58	.15	
Group 4	13.15	1.06	1.58	.15	
Group 5	13.25	1.06	1.58	.15	

Group 1: Cutting Torch Operator (demolition); Dry Packing of Concrete and Filling of Form-bolt Holes; Fine Grader, highway and street paving, airport runways and similar type heavy construction; Spotter, Debris Handler and Dumpman; Gas and Oil Pipeline Laborer; Guinea Chaser; Laborer, demolition (cleaning of bricks, lumber, etc.); Laborer, general or construction; Laborer, packing rod steel and pans; Laborers, temporary water lines (portable type); Landscape Gardener and Nurseryman; Tarman and Mortarman, Kettleman, Potman and man applying asphalt, lay-kold creosote, lime and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Underground Laborer, including Caisson Bellowers; Window Cleaner

LABORERS (Cont'd)
Clark, Esmeralda, and Lincoln Counties; Nye County (south half, including Highway #6)

Group 2: Asphalt Raker, Ironer, Spreader, Luteman; Buggymobile Man; Cement Dumper (on 1 yard or larger mixers and handling bulk cement); Cesspool Digger and Installer; Chucktender (except tunnel); Concrete Core Cutter; Concrete Curer, Impervious Membrane and Oiler of all materials; Concrete Saw Man, excluding tractor type, cutting, scoring old or new concrete; Gas and Oil Pipeline Wrapper, Pot Tender and Form Man; Making and caulking of all non-metallic pipe joints; Operators and Tenders of pneumatic and electric tools, Vibrating Machines, hand-propelled Trenching Machines, Impact Wrench, multiplate and similar mechanical tools not separately classified herein; Operator of Cement Grinding Machine; Riprap Stonepaver; Roto-scraper; Sandblaster (Pot Tender); Scaler; Septic Tank Digger and Installer (Leadman); Tank Scaler and Cleaner; Tree Climber, Raller, Chain Saw Operator, Pittsburgh Chipper and similar type Brush Shredders

Group 3: Gas and Oil Pipeline Wrapper, 6 inch pipe and over; Jackhammer and/or Pavement Breaker; Laying of all non-metallic pipe, including sewer pipe, drain pipe, and underground tile; Oversize Concrete Vibrator, 70 lbs. and over; Rock Slinger; Scaler (using Bos'n Chair or Safety Belt or power tools)

Group 4: Cribber or Shorer, Lagging, Sheeting, Trench Bracing, hand guided Lagging Hammer; Head Rock Slinger; Powderman - Blaster, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Sandblaster (Nozzleman); Steel Headerboard Man

Group 5: Driller (Core, Diamond or Wagon); Joy Driller Model TW-M-2A, Gardner-Denver Model DH 143 and similar type drills

LABORERS: (Cont'd) Remaining Counties:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
Group 1	$11 71	$1.10	$1.30		.10
Group 2	11.81	1 10	1.30		.10
Group 3	11.96	1 10	1 30		.10
Group 4	12.21	1 10	1.30		.10
Group 5	12 51	1 10	1 30		.10
Group 6-A	12.51	1.10	1.30		10
Group 6-B	12 21	1.10	1 30		.10
Group 6-C	11.86	1 10	1.30		.10

Group 1: All cleanup work of debris, grounds and building including windows and tile; Dumpman or Spotter (other than asphalt); General Laborer; Gardeners and Landscape Laborers; Limber, Brushloader and Piler

Group 2: Choker Setter or Rigger (clearing work only); Pittsburgh Chipper and similar type Brush Shredders; Concrete worker (wet or dry) all concrete work not listed in Group 3; Crusher or Grizzle Tender; Guinea Chaser (Stakeman); Panel Forms (wood or metal) handling, cleaning and stripping of; Loading and unloading, carrying and handling of all rods and material for reinforcing concrete; Railroad Trackmen (builders); Sloper; Semi-skilled Wrecker (salvaging of building materials other than those listed in Group 3); Greasing Dowels

LABORERS: (Cont'd)
Remaining Counties

Group 3: Asphalt Workers (Ironers, Shoveler, Cutting Machine); Buggymobile; Chainsaw, Faller, Logloader and Bucker; Compactor (all types); Concrete Mixer, under 1/2 yd.; Concrete Pan Work (breadpan type) (handling, cleaning, stripping); Concrete Saw, Chipping, Grinding, Sanding, Vibrator; Cribbing, Shoring, Lagging, Trench Jacking, Hand-guided Lagging Hammer; Curbing or Divider Machine; Curb Setter (precast or cut); Ditching Machine (hand-guided); Driller's Tender, Chuck Tender; Form Raiser, Slip Forms; Grouting of concrete walls, windows and door jams; Headerboardman; Jackhammer, Pavement Breaker, Air Spade; Mastic Worker (wet or dry); Pipe Wrapper, Kettleman, Potman, and men applying asphalt, Creosote and similar type materials; All power tools (air, gas or electric) not listed in Group 5; Pipejacking; Posthole Digger (air, gas or electric); Post Driver; Riprap-stonepaver and Rock Slinger, including placing of sack concrete, wet or dry; Roto Tiller; Rigging and Signaling in connection with Laborers' work; Sandblaster, Potman, Gunman or Nozzleman; Vibra-screed; Skilled Wrecker (removing and salvaging of sash windows, doors, plumbing and electrical fixtures

Group 4: Burning and Welding in connection with Laborers' work; Joy Drill Model TWM-2A, Gardner Denver Model DN 143 and similar type Drills; Track Drillers, Diamond Core Drillers, Wagon Drillers, Mechanical Drillers on multiple units; High Scalers; Concrete Pump; Heavy Duty Vibrator with stinger 5" diameter or over; Pipelayer, Caulker and Bander; Pipelayer - waterline, sewerline, gasline, conduit; Asphalt Rakers

Group 5: Blaster and Powderman, all work of loading, placing and blasting of all powder and explosives of any type, regardless of method used for such loading and placing

Group 6-A: Nozzleman

Group 6-B: Gunman, Materialman

Group 6-C: Reboundman

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
POWER EQUIPMENT OPERATORS: Clark, Esmeralda, Lincoln, and Nye Counties:					
Group 1	$15.25	$1.25	$2.80	$1.17	.14
Group 2	15.53	1.25	2.80	1.17	.14
Group 3	15.82	1.25	2.80	1.17	.14
Group 4	15.96	1.25	2.80	1.17	.14
Group 5	16.18	1.25	2.80	1.17	.14
Group 6	16.29	1.25	2.80	1.17	.14
Group 7	16.41	1.25	2.80	1.17	.14
Group 8	16.58	1.25	2.80	1.17	.14
Group 9	16.71	1.25	2.80	1.17	.14

POWER EQUIPMENT OPERATORS
Clark, Esmeralda, Lincoln, and Nye Counties

Group 1: Brakeman; Compressor Operator; Ditch Witch, with seat or similar type equipment; Elevator Operator - inside; Engineer Oiler; Forklift Operator (under 5 tons capacity); Generator Operator; Generator, Pump or Compressor Plant Operator; Heavy duty Repairman Tender; Pump Operator; Switchman

Group 2: Concrete Mixer Operator - skip type; Conveyor Operator; Fireman; Hydrostatic Pump Operator; Oiler Crusher (asphalt or concrete plant); Rotary Drill Tender (Oilfield); Skiploader (wheel type up to 3/4 yard without attachment); Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant Operator; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck Operator; Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine Operator; Power Concrete Saw Operator; Power-driven Jumbo Form Setter Operator; Ross Carrier Operator (jobsite); Stationary pipe wrapping and cleaning Machine Operator

Group 4: Asphalt Plant Fireman; Boring Machine Operator; Boxman or Mixerman (asphalt or concrete); Bridge-type Unloader and Turnable Operator; Chip Spreading Machine Operator; Concrete Pump Operator (small portable); Dinkey Locomotive or Motorman (up to and including 10 ton); Equipment Greaser (grease truck); Helicopter Hoist Operator; Highline Cableway Signalman; Hydra-Hammer-Aero Stomper; Power Sweeper Operator; Roller Operator (compacting); Screed Operator (asphalt or concrete); Trenching Machine Operator (up to 6 feet)

Group 5: Asphalt Plant Engineer; Batch Plant Operator; Bit Sharpener; Concrete Joint Machine Operator (canal and similar type); Concrete Planer Operator; Deck Engine Operator; Derrickman (Oilfield type); Drilling Machine Operator (including water wells); Hydrographic Seeder Machine Operator (straw, pulp or seed); Jackson Track Maintainer, or similar type; Kalamazoo Switch Tamper, or similar type; Machine Tool Operator; Maginnis Internal Full Slab Vibrator; Mechanical Berm, curb or gutter (concrete or asphalt); Mechanical Finisher Operator (concrete, Clary - Johnson - Bidwell or similar); Pavement Breaker Operator; Road Oil Mixing Machine Operator; Roller Operator (asphalt or finish); Rubber-tired earth moving equipment (single engine, up to and including 25 yards struck); Self-propelled Tar Pipelining Machine Operator; Skiploader Operator (Crawler and wheel type, over 3/4 yard and up to and including 1¼ yards); Slip Form Pump Operator (power-driven hydraulic lifting device for concrete forms); Stinger Crane (Austin-Western or similar type); Tractor Operator - Bulldozer, Tamper, Scraper (single engine, up to 100 H.P., flywheel and similar types, up to and including D-5 and similar types); Tugger Hoist (1 drum); Tunnel Locomotive Operator (over 10 and up to and including 30 tons)

POWER EQUIPMENT OPERATORS (Cont'd)
Clark, Esmeralda, Lincoln, and Nye Counties

Group 6: Asphalt or Concrete Spreading Operator (tamping or finishing); Asphalt Paving Machine Operator (Barber-Greene or similar type); Backhoe Operator (up to and including 3/4 yd.); Bridge Crane Operator; Cast-in-place Pipelaying Machine Operator; Combination Mixer and Compressor Operator (gunite work); Compactor Operator - self-propelled; Concrete Mixer Operator - paving; Concrete Pump Operator - truck mounted; Crane Operator (up to and including 25 tons capacity); Cretor Crane Operator; Crushing Plant Operator; Drill Doctor; Elevating Grader Operator; Forklift Operator (over 5 tons); Grade Checker; Gradall Operator; Grouting Machine Operator; Guard Rail Post Driver Operator; Heading Shield Operator; Heavy duty Repairman; Hoist Operator (Chicago Boom and similar type); Kalamazoo Balliste Regulator or similar type; Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Mobile Operator; Lift Slab Machine Operator (Vagtborg and similar types); Loader Operator (Athey, Euclid, Sierra and similar types); Material Hoist Operator; Mucking Machine Operator (1/4 yard)(rubber-tired, rail or track type); Pneumatic Concrete Placing Machine Operator (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Polar Gantry Crane Operator; Pumpcrete Gun Operator; Rotary Drill Operator (excluding Caisson type); Rubber-tired earth moving equipment Operator (single engine, Caterpillar, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yards and up to and including 50 cu. yards struck); Rubber-tired earth moving equipment Operator (multiple engine - up to and including 25 yards struck); Rubber-tired Scraper Operator (self-loading - paddle wheel - John Deere, 1040 and similar single unit); Self-propelled Curb and Gutter Machine Operator; Skiploader Operator (Crawler and wheel type - over 1½ yards up to and including 6½ yards); Surface Heater and Planer Operator; Tower Crane Operator; Tractor Compressor Drill Combination Operator; Tractor Operator (any type larger than D-5 - 100 flywheel H P. and over, or similar - Bulldozer, Tamper, Scraper, and Push Tractor, single engine); Tractor Operator (boom attachments); Traveling Pipe wrapping, cleaning and bending Machine Operator; Trenching Machine Operator (over 6 ft. depth capacity, manufacturer's rating); Tunnel Locomotive Operator (over 30 tons); Shovel, Backhoe, Dragline, Clamshell Operator (over 3/4 yard and up to 5 cu. yards M.R.C.)

POWER EQUIPMENT OPERATORS: (Cont'd)
Clark, Esmeralda, Lincoln, and Nye Counties

Group 7: Crane Operator (over 25 tons up to and including 100 tons M.R.C.); Derrick Barge Operator; Dual Drum Mixer; Heavy-duty Repairman-Welder Combination; Hoist Operator, Stiff Legs, Guy Derrick, or similar type, up to and including 100 tons); Monorail Locomotive Operator (diesel, gas or electric); Motor Patrol - Blade Operator (single engine); Multiple Engine Tractor Operator (Euclid and similar type - except Quad 9 Cat); Pedestal Crane Operator; Rubber-tired earth moving equipment Operator (single engine, over 50 yards struck); Rubber-tired earth moving equipment Operator (multiple engine, Euclid, Caterpillar and similar - over 25 yards and up to 50 yards struck); Shovel, Backhoe, Dragline, Clamshell Operator (over 5 cu. yards M.R.C.); Tower Crane Repairman; Tractor Loader Operator (Crawler and wheel-type, over 6½ yards); Woods Mixer Operator (and similar Pugmill equipment)

Group 8: Auto Grader Operator; Automatic Slip Form Operator; Crane Operator - over 100 tons; Crawler Transporter Operator; Hoe Ram or similar with Compressor; Hoist Operator (Stiff Legs, Guy Derrick, or similar type - capable of hoisting 100 tons or more); Mass Excavator Operator - less than 750 cu. yds.; Mechanical Finishing Machine Operator; Mobile Form Traveler Operator; Mobile Tower Crane Operator; Motor Patrol Operator (multi-engine); Pipe Mobile Machine Operator; Rubber-tired earth moving equipment Operator (multiple engine, Euclid, Caterpillar and similar type - over 50 cu. yds. struck); Rubber-tired Scraper Operator (pushing one another without Push Cat, Push-pull); Rubber-tired self-loading Scraper Operator (paddle wheel - Auger type self-loading - two or more units); Tandem equipment Operator (two units only); Tandem Tractor Operator (Quad 9 or similar type); Tunnel Mole Boring Machine Operator

Group 9: Canal Linear Operator; Canal Trimmer Operator; Helicopter Pilot; Highline Cableway Operator; Polar Crane Operator; Remote Controlled earth moving equipment Operator ($1.00 per hour additional to base rate); Wheel Excavator Operator (over 750 cu. yds. per hour)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
POWER EQUIPMENT OPERATORS: (Except Piledriving and Steel Erection):					
Remaining Counties:					
Area 1:*					
Group 1-A	$11.64	$2.24	$3.00	$2.07	.11
Group 2	12.08	2.24	3.00	2.07	.11
Group 3	12.31	2.24	3.00	2.07	.11
Group 4	12.93	2.24	3.00	2.07	.11
Group 5	13.18	2.24	3.00	2.07	.11
Group 6	13.32	2.24	3.00	2.07	.11
Group 7	13.53	2.24	3.00	2.07	.11
Group 8	14.02	2.24	3.00	2.07	.11
Group 9	14.29	2.24	3.00	2.07	.11
Group 10	14.59	2.24	3.00	2.07	.11
Group 10-A	14.74	2.24	3.00	2.07	.11
Group 11	14.95	2.24	3.00	2.07	.11
Group 11-A	16.31	2.24	3.00	2.07	.11
Area 2:*					
Group 1-A	12.89	2.24	3.00	2.07	.11
Group 2	13.33	2.24	3.00	2.07	.11
Group 3	13.56	2.24	3.00	2.07	.11
Group 4	14.18	2.24	3.00	2.07	.11
Group 5	14.43	2.24	3.00	2.07	.11
Group 6	14.57	2.24	3.00	2.07	.11
Group 7	14.78	2.24	3.00	2.07	.11
Group 8	15.27	2.24	3.00	2.07	.11
Group 9	15.54	2.24	3.00	2.07	.11
Group 10	15.84	2.24	3.00	2.07	.11
Group 10-A	15.99	2.24	3.00	2.07	.11
Group 11	16.20	2.24	3.00	2.07	.11
Group 11-A	17.56	2.24	3.00	2.07	.11
Area 3:*					
Group 1-A	13.39	2.24	3.00	2.07	.11
Group 2	13.83	2.24	3.00	2.07	.11
Group 3	14.06	2.24	3.00	2.07	.11
Group 4	14.68	2.24	3.00	2.07	.11
Group 5	14.93	2.24	3.00	2.07	.11
Group 6	15.07	2.24	3.00	2.07	.11

*See AREA DESCRIPTIONS - Page 17

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
POWER EQUIPMENT OPERATORS: (Except Piledriving and Steel Erection): (Cont'd)					
Remaining Counties: (Cont'd)					
Area 3:* (Cont'd)					
Group 7	$15.28	$2.24	$3.00	$2.07	.11
Group 8	15.77	2.24	3.00	2.07	.11
Group 9	16.04	2.24	3.00	2.07	.11
Group 10	16.34	2.24	3.00	2.07	.11
Group 10-A	16.49	2.24	3.00	2.07	.11
Group 11	16.70	2.24	3.00	2.07	.11
Group 11-A	18.06	2.24	3.00	2.07	.11
Area 4:*					
Group 1-A	14.14	2.24	3.00	2.07	.11
Group 2	14.58	2.24	3.00	2.07	.11
Group 3	14.81	2.24	3.00	2.07	.11
Group 4	15.43	2.24	3.00	2.07	.11
Group 5	15.68	2.24	3.00	2.07	.11
Group 6	15.82	2.24	3.00	2.07	.11
Group 7	16.03	2.24	3.00	2.07	.11
Group 8	16.52	2.24	3.00	2.07	.11
Group 9	16.79	2.24	3.00	2.07	.11
Group 10	17.09	2.24	3.00	2.07	.11
Group 10-A	17.24	2.24	3.00	2.07	.11
Group 11	17.45	2.24	3.00	2.07	.11
Group 11-A	18.81	2.24	3.00	2.07	.11

AREA DEFINITIONS

Area 1: Area within 50 road miles of either the Carson City Courthouse or the Washoe County Courthouse
Area 2: Area between 50 and 150 road miles of the Washoe County Courthouse
Area 3: Area between 150 and 300 road miles of the Washoe County Courthouse
Area 4: Area over 300 road miles of the Washoe County Courthouse

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)
Remaining Counties

Group 1-A: Brakeman; Deckhand; Fireman; Oiler; Switchman; Tar Pot Fireman

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pumps; Tar Pot Fireman (power-agitated)

Group 3: Box Operator (bunker); Concrete Curing Machine (streets, highways, airports, canals); Conveyor Belt (tunnel); Engineer Generating Plant (500 K.W.); Fireman Hot Plant; Hydraulic Monitor; Mixer Box Operator (concrete plant); Motorman; Oiler (truck crane); Rotomist; Screedman (except asphaltic or concrete paving); Bobcat or similar loader, 1/4 cu. yd. or less

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper, multi-purpose; Boxman (asphalt plant); Concrete Mixer, skip type; Dinky; Fork Lift (construction jobsite); Line Master; Ross Carrier; Skip Loader (under 1 cu. yd.); Tie Spacer

Group 5: Concrete Mixer (over 1 cu. yd.); Concrete Pumps or Pumpcrete Guns; Elevator and Material Hoist (1 drum); Shuttle Car; Signalman; Screedman (Barber-Greene and similar)(asphalt or concrete paving)

Group 6: Boom Truck or Dual Purpose "A" Frame Truck; B.L.H. Lima Road Pactor or similar; Chip Box Spreader (Flaherty type or similar); Concrete Batch Plant (wet or dry); Concrete Saws (highways, streets, airports, canals); Highline Cableway Signalman; Locomotive (over 30 tons); Lubrication and Service Engineer (mobile and grease rack); Maginnis International Full Slab Vibrator (airports, highways, canals, warehouses); Mechanical Burn, Curb and/or Curb and Gutter Machine (concrete or asphalt); Pavement Breaker, truck mounted, with compressor combination; Pavement Breaker or Tamper (with or without compressor combination); Power Jumbo (setting slip-forms, etc., in tunnels); Roller (except asphalt); Self-propelled Tape Machine; Self-propelled Compactor (single engine); Slip Form Pump (power-driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Small Rubber-tired Tractors; Snooper Crane, Paxton-Mitchell or similar; Stationary Pipe Wrapping, Cleaning and Bending Machine; Auger-type drilling equipment up to and including 30 feet depth drilling capacity M.R.C.

POWER EQUIPMENT OPERATORS (Cont'd)
Except Piledriving and Steel Erection) (Cont'd)
Remaining Counties

Group 7: Bit Sharpener; Compressor (over 2); Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Concrete Conveyor, building site; Deck Engineer; Drilling and Boring Machinery, vertical and horizontal (not to apply to Waterliners, Wagon Drills or Jackhammers); Crusher Plant Engineer; Generators; Kolman Loader; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Pipe Bending Machines (pipelines only); Pipe Cleaning Machines (tractor propelled and supported); Pipe Wrapping Machines (tractor propelled and supported); Portable Crushing and Screening Plants; Pumps (over 2); Refrigeration Plants; Roller Operator (asphalt); Self-propelled Boom-type lifting device (center mount) (10 ton capacity or less); Slusher; Soil Tester (certified); Surface Heater and Planer; Trenching Machine (maximum digging capacity 3 feet depth); Post Driller and/or Driver; Auger-type drilling equipment over 30 ft. depth digging capacity M.R.C.

Group 8: Asphalt Milling Machine; Asphalt Plant Engineer; Car Passer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor; Concrete Batch Plant (multiple units); Dozer; Drill Doctor; Elevating Grader; Gradesetter, Grade Checker; Grooving and Grinding Machine (highway); Heavy-duty Repairman and/or Welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Mechanical Trench Shield; Mixermobile; Push Cats; Road Oil Mixing Machine (Wood-mixer and other similar Pugmill equipment); Rubber-tired earth-moving equipment (up to and including 35 cu. yds. "struck" M.R.C., Euclid, T-Pulls, DW's 10, 20, 21, and similar); Self-propelled Compactor with Dozer; Hyster 450 or Cat 825 or similar; Sheepfoot; Small Tractor (with boom); Soil Stabilizer (P & H or equal); Timber Skidder (rubber-tired or similar equipment); Tractor-drawn Scraper; Tractor; Tractor-mounted Compressor Drill combination; Trenching Machine (over 3 feet depth); Tri-batch Paver; Tunnel Badger or Tunnel Boring Machine; Tunnel Mole Boring Machine; Vermeer T-600B Rock Cutter

Group 9: Chicago Boom; Combination Backhoe and Loader (up to and including 3/8 yards); Combination Mixer and Compressor (gunite); Lull Hi-lift (20 feet or over); Mucking Machine; Sub-grader (Gurries or other types); Tractor (with boom) (D6 or larger); Track-laying-type earthmoving Machine (single engine with Tandem Scrapers)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)
Remaining Counties (Cont'd)*

Group 10: Boom-type Backfilling Machine; Bridge Crane; Cary-lift or similar; Chemical Grouting Machine; Derricks; Derrick Barges (except excavation work); Euclid Loader and similar types; Heavy-duty Rotary Drill Rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu. yds. up to and including 4 cu. yds.); Locomotive (over 100 tons)(single or multiple units); Multiple-engine Earth-moving Machines (Euclid, Dozers, etc.); Pre-stress Wire-wrapping Machine; Rubber-tired Scraper, self-loading; Single-engine Scraper (over 35 cu. yds.); Self-propelled Reservoir-debris equipment Floating (200 HP and over); Shuttle Car (reclaim station); Train Loading Station; Trenching Machine multi-engine with sloping attachment (Jefco or similar); Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons)

Group 10-A: Backhoe (up to and including 1 cu. yd. hydraulic); Backhoe (up to and including 1 cu. yd. cable); Cranes (not over 25 tons)(Hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Motor Patrol; Power Shovels, Clamshells, Draglines, Cranes (up to and including 1 cu. yd.); Rubber-tired Scraper, self-loading (twin-engine); Self-propelled Boom-type lifting device (center mount)(over 10 tons up to and including 25 tons); CMI Dual-lane Auto-grader SP30 or similar

Group 11: Automatic Asphalt or Concrete Slip-form Paver; Automatic Railroad Car Dumper; Canal Trimmer; Cary Lift, Campbell or similar; Cranes (over 25 tons); Highline Cableway Operator; Loader (over 4 cu. yds. up to and including 12 cu. yds.); Multiple-engine Scraper (when used to Push Pull); Multi-engine Earthmoving equipment (up to and including 75 cu. yds. "struck" M.R.C.); Power Shovels, Clamshells, Draglines, Backhoes, Grade-alls (over 1 cu. yd. and up to and including 7 cu. yds. M.R.C.); Self-propelled Compactor (with multiple-propulsion power units); Self-propelled Boom-type lifting device (over 25 tons M.R.C.); Single-engine Rubber-tired Earthmoving Machine (with Tandem Scraper); Slip-form Paver (concrete or asphalt); Tandem Cats and Scrapers; Tower Crane Mobile (including rail-mounted); Truck-mounted Hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons); Universal Liebher and Tower Cranes (and similar types); Wheel Excavator (up to and including 750 cu. yds. per hour); Whirley Cranes (over 25 tons); Euclid Loader when controlled from the Pullcat

Group 11-A: Band Wagons (in conjunction with wheel excavators); Loaders (over 12 cu. yds.); Multi-engine earthmoving equipment (over 75 cu. yds. "struck" M.R.C.); Operator of Helicopter (when used in construction work); Power Shovels, Clamshells, Draglines, Backhoes and Gradalls (over 7 cu. yds. M.R.C.); Remote-controlled earthmoving equipment; Wheel Excavator (over 750 cu. yds. per hour)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education* and/or Appr Tr
POWER EQUIPMENT OPERATORS:					
Piledriving:					
Remaining Counties:					
Group 1	$11.63	$2.24	$3 00	$2.07	.11
Group 1-A	12.04	2.24	3.00	2 07	.11
Group 1-B	12.29	2.24	3.00	2.07	.11
Group 2-A	12.29	2.24	3.00	2.07	.11
Group 2-B	12.98	2.24	3.00	2.07	.11
Group 2-C	13.19	2.24	3.00	2.07	.11
Group 2-D	13.37	2.24	3.00	2.07	.11
Group 3	13.55	2.24	3.00	2.07	.11
Group 3-A	14.07	2.24	3.00	2.07	.11
Group 4	14.73	2.24	3.00	2.07	.11
Group 5	14.94	2.24	3.00	2.07	.11
Group 6	16.31	2.24	3.00	2.07	.11

POWER EQUIPMENT OPERATORS (Cont'd)
Piledriving
Remaining Counties

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler

Group 2-A: Operator or Tugger Hoist (hoisting material only)

Group 2-B: Forklift Operator

Group 2-C: A-Frames

Group 2-D: Compressor Operator (over 2); Generator Operator; Pump Operator (over 2); Welding Machine Operator (powered other than by electricity)

Group 3: Deck Engineer; Self-propelled Boom-type lifting device (center mount) (10 ton capacity or less M.R.C.)

Group 3-A: Heavy-duty Repairman/Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending Boiler or Compressor attached to Crane Piledriver; Operator of Piledriving Rigs, Skid or Floating and Derrick Barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler)(up to and including 1 cu. yd. rating); Self-propelled Boom-type lifting device (center mount)(over 10 tons up to and including 25 tons); Truck Crane Operator (up to and including 25 tons - hoisting material only)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler)(over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam-powered Crawler, or Universal-type Driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work); Self-propelled boom-type lifting device (center mount) (over 25 tons); Truck-mounted Hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons)

Group 6: Cranes (over 125 tons)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
POWER EQUIPMENT OPERATORS: STEEL ERECTION:					
Remaining Counties:					
Group 1	$12.20	$2.24	$3.00	$2.07	.11
Group 2	12.65	2.24	3.00	2.07	.11
Group 3	13.88	2.24	3.00	2.07	.11
Group 4	14.05	2.24	3.00	2.07	.11
Group 4-A	14.42	2.24	3.00	2.07	.11
Group 5	15.02	2 24	3.00	2.07	.11
Group 6	15.54	2.24	3.00	2 07	.11
Group 7	15.90	2.24	3.00	2.07	.11
Group 8	16.25	2.24	3.00	2 07	.11
Group 9	17.51	2.24	3.00	2.07	.11

POWER EQUIPMENT OPERATORS (Cont'd)
Steel Erection

Remaining Counties

Group 1: Oiler

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 K.W. or over) (structural steel or tank erection only); Truck Crane Oiler

Group 3: Compressors, Generators and/or Welding Machines or Combination (2 to 6) (structural steel or tank erection only); Deck Engineer; Signalman (using mechanical equipment); Forklift

Group 4: Heavy-duty Repairman; Tractor Operator

Group 4-A: Combination Heavy-duty Repairman/Welder

Group 5: Boom Truck or Dual Purpose A-Frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 ton M.R.C. or less); Self-propelled boom-type lifting device (center mount) (10 ton capacity or less M.R.C.); Single drum Hoist; Tugger Hoist

Group 6: Cary Lift, Campbell or similar; Crawler Cranes and Truck Cranes (over 15 tons M.R.C.); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Tower Cranes Mobile; Universal Liebher and Tower Cranes (and similar types); Two or more drum Hoist

Group 7: Self-propelled boom-type lifting device (center mount) (over 25 tons); Truck-mounted Hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons)

Group 8: Cranes (over 125 tons)

Group 9: Operator of Helicopter

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
TRUCK DRIVERS: Clark, Esmeralda, and Lincoln Counties; and Nye County (south of and excluding Highway #6):					
Group 1	$12.78	.81	$1.26		
Group 2	12.89	.81	1.26		
Group 3	12.94	.81	1.26		
Group 4	13.10	.81	1.26		
Group 5	13.28	.81	1.26		
Group 6	13.78	.81	1.26		

Group 1: Dump Trucks (less than 12 yards); Trucks (legal payload capacity less than 15 tons); Water and Fuel Trucks (under 2500 gallons); Pickups; Service; Repairman Tender; Drivers of busses (on jobsite used for transportation of up to 25 passengers); Teamster equipment (highest rate for dual craft operation)

Group 2: Dump Trucks (12 yards but less than 16 yards); Trucks (legal payload capacity between 15 and 20 tons); Water and Fuel Trucks (2500 to 4000 gallons); Truck Driver working on gas and oil pipeline (including Winch Truck and all sizes of trucks); Truck Greaser and Tireman; Drivers of busses (on jobsite used for transportation of more than 25 passengers); Bootman

Group 3: Dumpcrete (less than 6½ yards); Transit-Mix (less than 3 yards); Warehouse Clerk

Group 4: Dump Trucks (16 yards up to and including 22 yards); Trucks (legal payload capacity 20 ton but less than 30 tons); Water and Fuel Trucks (4000 gallons but less than 6000 gallons); Dumpcrete (6½ yards and over); Transit-mix (3 yards but less than 6 yards); Euclid-type Spreader Trucks; Dumpster; Fork Lift; Ross Carrier - highway; Road Oil Spreading Truck, time spent spreading oil

Group 5: Dump Trucks (over 22 yards); Trucks (legal payload capacity 20 tons and over); Water and Fuel Trucks (6000 gallons and over); Transit-mix (6 yards and over); Truck Repairman

Group 6: D.W. and similar type equipment, D.W. 10 and D.W. 20; Euclid-type equipment, LeTourneau Pulls, Terra Cobras and similar types of equipment; also PB and similar-type Trucks when performing work within Teamsters' jurisdiction, regardless of types of attachment including power unit pulling off highway Belly Dumps in Tandem

TRUCK DRIVER: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Remaining Counties; and Nye County (north of and including Highway #6):					
Group 1	$12.72	$1 10	$1 12	$1.01	.05
Group 2	12.77	1.10	1.12	1.01	.05
Group 3	12.88	1 10	1.12	1 01	.05
Group 4	12.94	1 10	1.12	1 01	.05
Group 5	12 99	1.10	1.12	1.01	05
Group 6	13.04	1.10	1.12	1.01	.05
Group 7	13.15	1.10	1.12	1.01	.05
Group 8	13.21	1.10	1 12	1.01	.05
Group 9	13.26	1.10	1.12	1.01	.05
Group 10	13.32	1 10	1.12	1 01	.05
Group 11	13 43	1 10	1.12	1 01	.05
Group 12	13.48	1.10	1.12	1.01	.05
Group 13	13.74	1.10	1.12	1 01	.05
Group 14	13.76	1.10	1.12	1.01	.05
Group 15	13 92	1.10	1 12	1 01	.05
Group 16	14.09	1 10	1.12	1.01	.05

Group 1: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, under 4 yards

Group 2: bus and Manhaul Drivers, single units, Pickup, up to 1800 lbs.

Group 3: Bus and Manhaul Drivers, single unit, Pickup, 18,000 lbs. and over; Winch Trucks, A-Frame, under 18,000 lbs.; Road Oil Trucks or Bootman; Fuel Drivers; Fuel Man and Fuel Island Man

Group 4: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 4 yards and under 8 yards; Water Trucks and Jetting Trucks, up to 2,500 gallons; Flatrack, Industrial Lift with Mechanical Tailgate, single unit 2-axle; Warehouse Clerk

Group 5: Winch Trucks, A-Frame, 18,000 lbs. and over; Lift Jitneys and Fork Lifts

Group 6: Flatrack, Industrial Lift with Mechanical Tailgate, single unit 3-axle

TRUCK DRIVERS: (Cont'd)
Remaining Counties; and Nye County (north of and including Highway #6)

Group 7: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 8 yds. and under 18 yards; Transit Mix under 8 yards; Water Trucks and Jetting Trucks, 2,500 gallons and over; Tire Repairman

Group 8: Bootman, combination; Bootman and Road Oiler

Group 9: Transit Mix, 8 yards and including 12 yards

Group 10: Dump (single or multiple unit including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 18 yards and under 35 yards; Heavy Duty Transport (Highbed); Heavy Duty Transport (Gooseneck Lowbed); Tiltbed or Flatbed Pull Trailers

Group 11: DW 20's and 21's and other similar Cat type; Terra Cobra, LeTourneau Pulls, Tournerocker, Euclid and similar type equipment when pulling Aqua/Pak; Water Tank Trailers, Fuel and/or Grease Tank, or other miscellaneous trailers (except as defined under Dump Trucks)

Group 12: Transit Mix, over 12 yards; Truck Repairman

Group 13: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 35 yards and under 60 yards

Group 14: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 60 yards and under 75 yards; Helicopter Pilot (when transporting men or materials)

Group 15: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 75 yards and under 100 yards

Group 16: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 100 yards and over

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(1)(1)(ii)).

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: ULSTER
DECISION NO. NY81-3064 DATE: DATE OF PUBLICATION
Supersedes Decision No NY80-3049 dated August 29, 1980 in 45 FR 57932
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories), Heavy & Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS	14 60	1.07	.66		02
BOILERMAKERS	16.34	5%	15%	7%	02
BRICKLAYERS, CAULKERS, CLEANERS, CEMENT MASONS, PLASTERERS, POINTERS, MARBLE MASONS, STONE MASONS, TILE & TERRAZZO WORKERS					
Building	10.90	2 80	2 40	a	.06
Heavy & Highway	11.40	2.80	2.40	a	.06
CARPENTERS, MILLWRIGHTS, PILEDRIVERS, DOCKBUILDERS, & SOFT FLOOR LAYERS	11.60	1 15	1.15	1 00	05
ELECTRICIANS					
Hardenburgh, Denning, Rochester, Warwarsing Twps. & that portion of Gardiner & Shawangunk Twps West of a line following the Shawangunk Kill from the Orange County line North to Wallkill River & continuing North along the Wallkill River & Lloyd, New Paltz, Esopus, Rosendale, Marbletown, Ulster, Hurley, Olive Kingston, Saugerties, Woodstock & Shandaken Twps.	11.90	.85	3%+1 65	.50	½%
Remainder of County	13.40	7.4%	3%+1.20	.70	½%
GLAZIERS	13 75	.66	1.91	.67	.01
IRONWORKERS	11.75	1.86	4.25	1.60	.01
PAINTERS					
Brush, Roller & Tapers Steel, Structural Steel, Towers, Smokestacks, Fire Escapes, Flagpoles & Bridge	9.41	.80	.75		.01
Sandblasting & Spray	10.16	.80	.75		.01
Paper & Vinyl Hangers, Tapers	10.46	.80	.75		.01
PLUMBERS & STEAMFITTERS	9.41	.80	.75		.01
Twps.of Warwarsing, Plattekill, Marlboro & Shawangunk	13.35	1.35	2.15		.15
Remainder of County	14.10	2.15	1.00	1.30	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ROOFERS					
Cold Tar Pitch, Mopping & Dipping Application or Ripping Off	13 25	1 20	2.55		35
Asphalt Build-up, Asbestos Tile, Tile, Ceramic Tile, Slate, Tectum, Spray Insulation	12 75	1.20	2.55		.35
SHEET METAL WORKERS	15.73	2 27	2.38		.13
SPRINKLER FITTERS	15 55	.95	1.40		.08
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental					
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).					

FOOTNOTE:

a Two hours off with pay on Election Day

LABORERS, BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Common laborers, mason tenders, mortar mixers, hod carriers, scaffold builders, concrete men, signalman, vabrator men, poured gypsum roof work, wrecking, walking power buggy, landscaper, chipping hammer (air or electric 1" or under), operation and tending of all power driven hand fed mortar or concrete mixers, pumpcrete machines, plastering, fireproofing, and accoustic pumps and mixers					
Where total contract price does not exceed $150,000	9.54	1.25	1.25		.10
Where total contract price exceeds $150,000	10.60	1.25	1.25		.10
Asphaltmen, pipelayers, air or electric jackhammer, air track, wagon, joy and jib drills, powdermen, gunite or sandblasting barmen, chain saw operator, riding power buggy, vibro barco, joy tamper or similar type tamper (air or gas), walk behind roller, granite curbing, all fork lifts and laser operations					
Where total contract price does not exceed $150,000	9.77	1.25	1.25		.10
Where total contract price exceeds $150,000	10.85	1.25	1.25		.10
Blasters, form setters, burner acetylene torch, ingersoll rand, heavy duty crawler-master type HCMZ, drill machine or equivalent all wrecking work 50' or more above the ground					
Where total contract price does not exceed $150,000	10.13	1.25	1.25		.10
Where total contract price exceeds $150,000	11.25	1.25	1.25		.10

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
GROUP I	11 25	1.25	1.25		.10
GROUP II	11 50	1 25	1 25		.10
GROUP III	11.90	1.25	1.25		.10

HEAVY AND HIGHWAY CONSTRUCTION

GROUP I

Laborer, pitman, flagman, chuck tender, dump men, handling and distributing of drinking water, placing and maintenance of all flares, lights, barricades and all reflective type materials for traffic control.

GROUP II

Concrete men, vibrator men, asphalt men, joint setter, signal men, mason tenders, mortar men, pipelayers, rip rap and dry stone layers, steel rod carriers, jackhammer, pavement breaker, wagon drill, air track, jib rig and joy drill op., power buggy op , gunnite and sandblasting, coal passers and other machine op., sprayer and nozzle men on mulching and seeding machines, all seeding and sod laying, all landscape work, grade checkers, all bridge work, walk behind self-propelled power saw walk behind rollers and tampers of all types, wrecking laborers (including barmen and burnermen), all sheeting and sharing coming under the laborers jurisdiction bit grinder, operator of form pin pullers and drivers, joint and jet sealers and filling and wiring of baskets for gabion walls, permanent sign man.

GROUP III

Concrete finisher on highways, form setter, granite stone layer, Ingersoll rand heavy duty crawler-master type HCMZ or equivalent or any drill using a 4" or larger bit.

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Electrical Overhead & Underground Distrubution Work					
Journeyman Lineman & Technician	12.00	1.40	3%+1.00	a	
Cable Splicer	16.00	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.80	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.60	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	10.20	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.00	1.40	3%+1.00	a	
All Overhead Transimission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.80	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.42	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.04	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.73	1.40	3%+1.00	a	
Driver Mechanic, Groundman-Experienced	10.35	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technicians	14.55	1.40	3%+1.00	a	
Cable Splicer	16.005	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	13.095	1.40	3%+1.00	a	

LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.64	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	12.36	1.40	3%+1.00	a	
Driver Mechanic, Groundman-Experienced	10.91	1.40	3%+1.00	a	
All Pipe type Cable Installations, Maintenance Jobs or Projects					
Journeyman Lineman	14.55	1.40	3%+1.00	a	
Certified Lineman Welder	15.27	1.40	3%+1.00	a	
Cable Splicer	16.005	1.40	3%+1.00	a	
Groundman Equipment Operator	14.55	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	12.36	1.40	3%+1.00	a	
Groundman Truck Drivers	11.64	1.40	3%+1.00	a	
Groundman	10.91	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY & HIGHWAY, ROAD, STREET & SEWER CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
GROUP 1	16 91	12%+ 40	10%	a	3%
GROUP 2	15.09	12%+ 40	10%	a	3%
GROUP 3	14.21	12%+ 40	10%	a	3%
GROUP 4	14.10	12%+ 40	10%	a	3%
GROUP 5	13.87	12%+ 40	10%	a	3%
GROUP 6	13.38	12%+ 40	10%	a	3%
GROUP 7	13.09	12%+ 40	10%	a	3%
GROUP 8	12.92	12%+ 40	10%	a	3%
GROUP 9	12.87	12%+ 40	10%	a	3%
GROUP 10	12.75	12%+ 40	10%	a	3%
GROUP 11	12.70	12%+ 40	10%	a	3%
GROUP 12	12.46	12%+ 40	10%	a	3%
GROUP 13	12.06	12%+ 40	10%	a	3%
GROUP 14	11.89	12%+ 40	10%	a	3%
GROUP 15	11.55	12%+ 40	10%	a	3%

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION

GROUP 1
Helicopters pilot/engineer

GROUP 2
Autograde-combination subgrader, base MTL spreader & base trimmer (CMI & similar type); autograde placer-trimmer-spreader-combination (CMI & similar types); autograde slip form paver (CMI & similar types); backhoes (all types, including all combination hoe loaders); central power plants (all types); concrete paving machines; cranes (all types, including overhead & straddle travelling type); cranes, gantry; derricks - land or floating (building & heavy construction rate only), drillmaster, quarry master (down the hole drill); draglines; elevator graders; engines, large diesel (1625 HP) and staging pump; front end loaders (5 yds & over); gradalls; grader, rago; helicopters co-pilot and communication engineer; jacks, screw air hydraulic power operated unit or console type (not hand jack or pile load test type); locomotive (large); mucking machines; pavers (21E and over); paver, resinous, Broyhill; pavement and concrete breaker (i e. superhammer); pavement breaker truck mounted; piledriver; scooper (loader and shovel) Koehring; shovels; treechopper with boom; trench machines

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONTD)

GROUP 3
Pump, staging

GROUP 4
A-frame, boom attachment on loaders; boring & drilling machines; brush chopper, shipper & shredder; cableways; carryalls; cherry pickers - 6 tons & under (over 6 tons - crane rate applies); concrete pump; concrete pump system, pumpcrete, squeezecrete & similar types; conveyors, 125' & over: economobiles (hilo, lull, hyster similar type equipment); forklifts; front end loaders (2yds but less than 5 yds); groove cutting machines (ride or type); heater planer; hoist (Chicago Boom); Pans, LeTourneau, DW's Ukes, pumpcrete-unit type; pumpcrete machines, squeezecrete & concrete pumping; scrapers-LeTourneau, DW's Ukes; side booms; squeezecrete; "straddle" carrier, Ross and similar types; winch trucks (hoisting)

GROUP 5
Aerial platform (used as hoist); hoists all types except Chicago Boom type (building & heavy construction rate only); elevator or house cars (building and heavy construction rate only); roof hoists

GROUP 6
Asphalt spreaders; bridge deck finisher; grader, finish only; rollers-blacktop

GROUP 7
Asphalt curbing machines; asphalt plant engineer; autograde tube finisher & texturing machine (CMI & similar types); autograde concrete machine (CMI & similar types); autograde curb trimmer & sidewalk shoulder, slip-form (CMI & similar types); barbending machines (power); batchers, batching plant & crusher on site; bet convey or system; boilers and steam jennies (building & heavy construction rate only); boom type skimmer machines (building & heavy construction rate only); car dumpers (railroad); compressor and blower type units; concrete breaking machines; concrete finishing machines; concrete saws & cutters (ride on type); concrete spreaders-hetzel, recomatic & similar types; concrete vibrators (highway, road, street & sewer construction rate only); conveyors, under 125 ft ; crushing machines; ditching machine, small (ditch witch or similar); drill doctor (duties include dust collector); dope pots (mechanical with or without pump); dumpsters; fine grade machine (large type); front end loaders (1 yd & over but less than 2 yds) - highway, road, street & sewer construction rate only; front end loaders (under 2 yds) - building and heavy construction rates only; generators; giraffe grinders; graders and motor patrols; gunnite machines (excluding nozzle); hammer vibratory (in conjunction with generator); hoppers; heater doors (power operated); ladders (motorized) - building & heavy construction rate only;

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONTD.)

GROUP 7 (Contd.)
laddervator; lights, portable generating light plants; locomotive (dinky type); mechanic; mixers (excepting paving mixers); motor patrols & graders; pavers (under 21E); pavement breakers-small, self-propelled ride on type (also maincains compressor or hydraulic unit); pipe bending machine (power); pitch pump; plaster pump (regardless of size) - building & heavy construction rate only; post hole digger; rod bending machines (power); scales, power; seaman pulverizing mixer; silos; skimmer machines (boom type) - highway, road, street & sewer construction rate only; steam jennies and boilers; steel cutting machines, services & maintains; vibrating plants (used in conjunction with unloading); welder and repair mechanic.

GROUP 8
Compressors (2 or 3 within a total distance of 100' constitutes a battery) - building & heavy construction rate only; welding machines, gas or electric converters of any type - (2 or 3 in battery) - building and heavy construction rates only; welding system, multiple (rectifier transformer type) - building and heavy construction rate only.

GROUP 9
Brooms & Sweepers; bulldozer, D5 and over; fireman; sprinkler & water pump trucks (used on job site or in conjunction with job site); stone spreaders; sweepers & brooms; tractor, D8 & over; water and sprinkler trucks (used on job site or in conjunction with job site).

GROUP 10
Compressors (2 or 3 within a total distance of 100' constitutes a battery) - highway, road, street and sewer construction rate only.

GROUP 11
Front end loaders (under 1 yd.) - highway,road, street & sewer construction rate only.

GROUP 12
Bulldozer under D5; rollers - grade fill or stone base; tractors, under D8.

GROUP 13
Compressor (single); heaters (Nelson or other type including propane, natural gas or flow type units); pumps (4 inch suction & over including submersible pumps); pumps (2 or less than 4 inch suction including submersible pumps); pumps, diesel engineer & hydraulic (immaterial of power) - highway, road, street & sewer construction rate only; temporary heating plant (Nelson or other type, including propane, natural gas or flow type units); welding machines, gas or electric converters of any type -

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONTD)

GROUP 13 (Cont'd.)
single (building & heavy construction rate only); welding machines, gas or electric converters of any type (2 or 3 in battery) - highway, road, street & sewer construction rate only; wellpoint systems (including installation and maintenance).

GROUP 14
Concrete spreaders, (small type) convey or loaders (not including elevator graders) - highway, road, street & sewer construction rate only; farm tractors (highway, road, street & sewer construction rate only); fertilizing equipment; fine grade machine (small type) - highway, road, street & sewer construction rate only; form line graders (small type) - highway, road, street & sewer construction rate only; grease, gas, fuel and oil supply trucks; mixers, concrete small (highway, road, street & sewer construction rate only); mulching equipment; road finishing machines (small type) - highway, road, street & sewer construction rate only; seeding equipment; tamping machines, vibrating self-propelled; welding machines, gas or electric converters of any type-single (highway, road, street & sewer construction rate only).

GROUP 15
Assistant engineer/oiler; mechanics helper; tire repair and maintenance.

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day & Veterans Day provided the employee works any of the 3 days in the 5 day work week preceding the holiday and the first work day after the recognized holiday.

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
GROUP 1	18.72	12%+ 40	10%	a	3%
GROUP 2	16.91	12%+.40	10%	a	3%
GROUP 3	16.00	12%+.40	10%	a	3%
GROUP 4	15.26	12%+.40	10%	a	3%
GROUP 5	13.48	12%+ 40	10%	a	3%
GROUP 6	13.09	12%+ 40	10%	a	3%
GROUP 7	12.94	12%+.40	10%	a	3%
GROUP 8	12.57	12%+.40	10%	a	3%
GROUP 9	12.01	12%+.40	10%	a	3%

50¢ per hour on machines where "Cat Head" or "Sheave Point" is at least 100 feet above ground level and less than 140 feet; 75¢ per hour on machines where "Cat Head" or "Sheave Point" is 140 feet, or over above ground level.

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day & Veterans Day provided the employee works any of the 3 days in the 5 day work week preceeding the holiday and the first work day after the recognized holiday.

POWER EQUIPMENT OPERATORS: STEEL ERECTION

GROUP 1
Helicopters pilot/engineer.

GROUP 2
Cranes (all cranes - land or floating with booms - including jib, 140 feet and over above the ground); derricks (land or floating with booms including jib, 140 feet and over above the ground); helicopters co-pilot & communications engineer.

GROUP 3
Cranes (all cranes - land or floating with booms - including jib, less than 140 feet above the ground); derricks (land or floating, with booms including jib, less than 140 feet above the ground).

GROUP 4
Aerial platform used as hoist; A-frame; cherry pickers - 6 tons and under (over 6 tons - crane rate applies); fork lifts; hoists (all types except Chicago Boom type); jacks (screw air hydraulic power operated unit or console type, not hand jack or pile load test type); side booms.

GROUP 5
Compressors (2 or 3 in battery); generators; welding machines (gas or electric converters of any type 2 or 3 in battery multiple welders) welding system multiple (rectifier transformer type).

GROUP 6
Maintenance engineer

GROUP 7
Fireman

GROUP 8
Compressor (single); rod bending machines (power); welding machines (gas or electric converters of any type-single).

GROUP 9
Assistant engineer/oiler; straddle carrier.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
TRUCK DRIVERS:					
Drivers on LeTourneau tractors, double barrel Euclids, Athey wagon & similar equipment (except when hooked to scrapers), low beds, I-Bean, pole trailers, road oil distributors tire trucks tractors and trailers with 5 axle and over	11.50	1.00	1.05		a
Equipment 25 yds. & over up to and including 30 yd. bodies cable dump trailers powder and dynamite trucks	11.40	1.00	1.05		a
Equipment up to and including 24 yds. bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks and all other tractor trailers	11.20	1.00	1.05		a
Ten wheelers, grease trucks and tiller man	11.60	1.00	1.05		a
Straight trucks	11.00	1.00	1.05		a
Pick-up trucks used for hauling material parts escort man over the road	11.00	1.00	1.05		a

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F;

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Federal Register

Friday
September 18, 1981

Part III

Department of the Interior

Bureau of Land Management

Outer Continental Shelf; Gulf of Mexico, Oil and Gas Lease Sale No. 66

4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

Outer Continental Shelf
Gulf of Mexico

Oil and Gas Lease Sale No. 66

1. Authority This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S C 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300).

2. Filing of Bids Sealed bids will be received by the Manager, New Orleans Outer Continental Shelf (OCS) Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130. Bids may be delivered, either by mail or in person, to the above address until 4:15 p.m., c s.t., October 19, 1981; or by personal delivery to Louisiana Superdome, Gate "A," Main Entrance, Rooms 19, 20, and 21, Level 200, 1500 Poydras Street, New Orleans, Louisiana, between 8:30 a m., c.s.t. and 9:30 a.m., c.s.t., October 20, 1981. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a m., c.s.t., October 20, 1981. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 46 FR 22270, April 16, 1981.

3. Method of Bidding A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10:00 a m , c s t., October 20, 1981," must be submitted for each tract. A suggested form appears in 43 CFR Part 3300, Appendix A, for bonus bid tracts. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams or leasing maps. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of three decimal places after the decimal point, e g , 50.123%, as well as submit a sworn statement that the bidder is not disqualified under 43 CFR Subpart 3316. The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300, Appendix B. Other documents may be required of bidders under 43 CFR 3316.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. The proposed notice of sale for Sale 66 included 32 tracts to be offered under net profit share bidding with a fixed cash bonus. Meanwhile the Supreme Court granted certiorari to review the decision of the U.S. Court of Appeals for the District of Columbia Circuit in Energy Action Educational Foundation v. Andrus, No. 79-1633. On June 12, 1981, the Court of Appeals ruled that experimentation with the net profit share bid system is not required prior to a decision by the Supreme Court. As a result, no tracts will be offered under net profit share bidding with a fixed cash bonus for Sale 66.

All leases awarded for this sale will provide for a yearly rental payment of $3 per acre or fraction thereof. The following systems will be utilized.

(a) Bonus Bidding with a Fixed Net Profit Share: Bids on tracts 66-10, 66-11, 66-19, 66-20, 66-21, 66-22, 66-32, 66-33, 66-46, 66-48, 66-49, 66-88, 66-90 through 66-97, 66-100, 66-101, 66-104 through 66-107, 66-113, 66-114, 66-119, 66-120, 66-163, 66-164, 66-167 through 66-184, 66-188, 66-189, 66-190, 66-193 through 66-196, 66-199 through 66-202, and 66-205 through 66-208 must be submitted on a cash bonus basis with a fixed net profit share rate of 50 percent.

Tracts 66-10, 66-11, 66-104, 66-105, and 66-113 will have a capital recovery factor equal to 1.0. Tracts 66-100, 66-101, 66-106, 66-107, 66-114, 66-119, and 66-120 will have a capital recovery factor of 0.50. All of the remaining tracts listed in this paragraph will have a capital recovery factor equal to 0 25. The net profit share payment shall be calculated according to the Department of Energy regulations in 10 CFR 390 (45 FR 36784, May 30, 1980)

(b) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent. All leases awarded under this system will provide for a minimum royalty payment of $3 per acre or fraction thereof.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., c.s t., October 20, 1981, the certification required by 41 CFR 60-1.7(b) and Executive Order No 11246 of September 24, 1965, as amended by Executive Order No 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971)

Revisions of Department of Labor regulations on Affirmative Action requirements for Government contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 F.R. 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, Section 18 of the lease form, Form 3300-1 (September 1978), would be deleted from leases resulting from this sale. In addition, existing stocks of the Affirmative Action Forms contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1).

Pending the issuance of revised versions of Forms 1140-7 and 1140-8 by the Bureau of Land Management, submission of Form 1140-7 (December 1971) and Form 1140-8 (November 1973) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing Affirmative Action Forms.

6. Bid Opening. Bids will be opened on October 20, 1981, beginning at 10:00 a.m., c.s.t., at the Louisiana Superdome, at the second address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, October 20, 1981, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for the tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is the highest valid bid; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it provides for a cash bonus in the amount of $25 or more per acre or fraction thereof.

10. Successful Bidders Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus together with the first year's rental, and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR 3316 5.

11. Leasing Maps/Official Protraction Diagrams. Tracts offered for lease may be located on the following leasing maps/official protraction diagrams which are available from the Manager, New Orleans Outer Continental Shelf Office, at the first address stated in paragraph 2.

(a) Outer Continental Shelf Leasing Maps - Louisiana Nos. 1 through 12. This set of 27 maps sells for $17.

(b) Outer Continental Shelf Official Protraction Diagrams:

NH 16-7 Viosca Knoll

NH 16-8 Destin Dome

NH 15-12 Ewing Bank

NH 16-10 Mississippi Canyon

NG 15-3 Green Canyon

NG 16-6

NG 17-4 Charlotte Harbor

These sell for $2 each.

12. Tract Descriptions Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental statement may not be included in this notice Some of the blocks are included in prior environmental statements rather than the environmental statement prepared for this sale.

The tracts offered for bid are as follows:

TRACT LIST

SALE 66

OCS LEASING MAP, EUGENE ISLAND AREA, LOUISIANA MAP NO. 4
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
66-1	41	All	5000
66-2	42	All	5000
66-3	50	All	5000
66-4	55	All	5000
66-5	98	All	5000
66-6	106	All	5000
66-7	151	All	5000
66-8	152	All	5000
66-9	154	All	5000
66-10	163	All	5000
66-11	164	All	5000
66-12	263	All	5000

OCS LEASING MAP, EUGENE ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 4A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
66-13	279	All	5000
66-14	280	All	5000
66-15	320	All	5000

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Acreage
66-16	10	1/	4131.67
66-17	25	2/	3172.98
66-18	35	All	5000
66-19	78	All	5000
66-20	81	All	5000
66-21	101	All	5000
66-22	102	All	5000
66-23	128	All	5000
66-24	139	All	4913.33
66-25	231	All	5000

OCS LEASING MAP, SHIP SHOAL AREA, SOUTH ADDITION, LOUISIANA MAP NO 5A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
66-26	251	All	5000
66-27	268	All	5000
66-28	277	All	5000
66-29	278	All	5000
66-30	289	All	5000
66-31	302	All	5000
66-32	322	All	5000
66-33	323	All	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description	Acreage
66-34	47	All	5000
66-35	48	All	5000
66-36	49	All	5000
66-37	68	All	5000
66-38	69	All	3772.18
66-39	70	All	5000
66-40	71	All	5000
66-41	78	All	5000
66-42	79	All	5000
66-43	80	All	3772.18
66-44	147	All	5000
66-45	182	All	2148.46

OCS LEASING MAP, SOUTH TIMBALIER AREA, SOUTH ADDITION, LOUISIANA MAP NO. 6A
(Approved September 8, 1959; Revised July 22, 1968)

Tract	Block	Description	Acreage
66-46	217	All	5000
66-47	219	All	5000
66-48	292	All	5000
66-49	293	All	5000
66-50	297	All	5000
66-51	298	All	5000
66-52	299	All	4503.30

OCS LEASING MAP, GRAND ISLE AREA, LOUISIANA MAP NO. 7
(Approved June 8, 1954)

Tract	Block	Description	Acreage
66-53	29	S½	2500

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO 8
(Approved June 8, 1954)

Tract	Block	Description	Acreage
66-54	28	S½S½	1250
66-55	67	N½	2500
66-56	85	1/	2629 90

OCS LEASING MAP, WEST DELTA AREA, SOUTH ADDITION, LOUISIANA MAP NO. 8A
(Approved September 8, 1959; Revised November 24, 1961)

Tract	Block	Description	Acreage
66-57	111	All	5000

OCS LEASING MAP, SOUTH PASS AREA, LOUISIANA MAP NO 9
(Approved June 8, 1954; Revised July 22, 1954; Revised May 11, 1973)

Tract	Block	Description	Acreage
66-58	44	All	4999 96
66-59	46	All	4999 96
66-60	50	All	4999 96
66-61	51	All	4999 96

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
66-62	27	All	4994 55
66-63	28	All	4994 55
66-64	29	All	4994 55
66-65	30	All	4994 55
66-66	39	All	4994 55
66-67	55	1/	912 48
66-68	56	1/	4898 82
66-69	57	S½	2497 77
66-70	63	All	4994 55
66-71	64	1/	4988 25
66-72	100	N½; N½N½S½; SE¼NE¼SE¼; E½SE¼SE¼	3355 713
66-73	110	All	4994 55
66-74	117	All	4994 55
66-75	119	All	4994 55
66-76	124	All	4994 55
66-77	125	All	4994 55
66-78	130	All	4994 55
66-79	131	All	4994 55
66-80	137	All	4994 55
66-81	138	All	4994 55
66-82	139	All	4994 55
66-83	141	All	4994 55

OCS LEASING MAP, MAIN PASS AREA, SOUTH AND EAST ADDITION,
LOUISIANA MAP NO. 10A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
66-84	206	All	4994 55
66-85	207	All	4994 55
66-86	235	All	4994 55
66-87	238	All	4994 55
66-88	266	All	4994 55
66-89	273	All	4994 55
66-90	277	All	4994 55
66-91	278	All	4994 55

OCS OFFICIAL PROTRACTION DIAGRAM, VIOSCA KNOLL NH 16-7
(Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
66-92	204	All	5760
66-93	249	All	5760
66-94	250	All	5760
66-95	251	All	5760
66-96	294	All	5659.67
66-97	295	All	5760
66-98	522	All	5760
66-99	566	All	5760
66-100	816	All	5221.36
66-101	817	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, DESTIN DOME NH 16-8
(Approved October 10, 1972; Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
66-102	485	All	5760
66-103	530	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, EWING BANK NH 15-12
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
66-104	349	All	5688.15
66-105	350	All	2964.93
66-106	438	All	3542.89
66-107	482	All	3831.26
66-108	828	All	3730.68
66-109	872	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, MISSISSIPPI CANYON NH 16-10
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
66-110	20	All	2508.86
66-111	21	All	5164.76
66-112	64	All	5286.78
66-113	309	All	5760
66-114	397	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, GREEN CANYON NG 15-3
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
66-117	18	All	5760
66-118	62	All	5760
66-119	148	All	5760
66-120	192	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, NG 16-6
(Approved June 5, 1974; Revised December 2, 1976)

Tract	Block	Description	Acreage
66-121	172	All	3226.88
66-122	215	All	5760
66-123	216	All	3498.97
66-124	260	All	3770.65
66-125	304	All	4041.93
66-126	347	All	5760
66-127	348	All	4312 78
66-128	391	All	5760
66-129	392	All	4583.23
66-130	612	All	5760
66-131	655	All	5760
66-132	656	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, CHARLOTTE HARBOR NG 17-4
(Approved October 10, 1972; Revised December 2, 1976)

Tract	Block	Description	Acreage
66-133	57	All	5760
66-134	58	All	5760
66-135	100	All	5760
66-136	101	All	5760
66-137	102	All	5760
66-138	135	All	5760
66-139	136	All	5760
66-140	146	All	5760
66-141	177	All	5760
66-142	178	All	5760
66-143	179	All	5760
66-144	180	All	5760
66-145	189	All	5760
66-146	190	All	5760
66-147	222	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, CHARLOTTE HARBOR NG 17-4
(Approved October 10, 1972; Revised December 2, 1976)
(Continued)

Tract	Block	Description	Acreage
66-148	223	All	5760
66-149	224	All	5760
66-150	232	All	5760
66-151	233	All	5760
66-152	267	All	5760
66-153	275	All	5760
66-154	276	All	5760
66-155	309	All	5760
66-156	310	All	5760
66-157	353	All	5760
66-158	397	All	5760
66-159	398	All	5760
66-160	399	All	5760
66-161	400	All	5760
66-162	401	All	5760
66-163	406	All	5760
66-164	407	All	5760
66-165	444	All	5760
66-166	445	All	5760
66-167	450	All	5760
66-168	451	All	5760
66-169	488	All	5760
66-170	489	All	5760
66-171	490	All	5760
66-172	491	All	5760
66-173	492	All	5760
66-174	494	All	5760
66-175	495	All	5760
66-176	533	All	5760
66-177	534	All	5760
66-178	535	All	5760
66-179	536	All	5760
66-180	577	All	5760
66-181	578	All	5760
66-182	579	All	5760
66-183	580	All	5760
66-184	581	All	5760
66-185	584	All	5760
66-186	585	All	5760
66-187	586	All	5760
66-188	621	All	5760
66-189	622	All	5760
66-190	623	All	5760
66-191	629	All	5760
66-192	630	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, CHARLOTTE HARBOR NG 17-4
(Approved October 10, 1972; Revised December 2, 1976)
(Continued)

Tract	Block	Description	Acreage
66-193	665	All	5760
66-194	666	All	5760
66-195	667	All	5760
66-196	668	All	5760
66-197	673	All	5760
66-198	674	All	5760
66-199	709	All	5760
66-200	710	All	5760
66-201	711	All	5760
66-202	712	All	5760
66-203	717	All	5760
66-204	718	All	5760
66-205	753	All	5760
66-206	754	All	5760
66-207	755	All	5760
66-208	756	All	5760
66-209	759	All	5760
66-210	760	All	5760
66-211	761	All	5760

1/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U S Supreme Court, June 16, 1975 (United States vs Louisiana, 422 U S 13)

2/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U S Supreme Court, June 16, 1975 (United States vs Louisiana, 422 U S 13), excluding any valid Federal lease

13 Lease Terms and Stipulations. All leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Manager, New Orleans Outer Continental Shelf Office, at the first address stated in paragraph 2.

(a) For leases resulting from this sale for tracts offered on a cash bonus basis with a fixed net profit share, listed in paragraph 4 (a), Form 3300-1 will be amended as follows:

Sec. 4. Rentals. The phrase "which commences prior to a discovery in paying quantities of oil or gas on the leased area" is hereby deleted and replaced by "which commences prior to the date the first net profit share payment becomes due."

Sec 5. Minimum Royalty. Hereby deleted.

Sec. 6 Royalty on Production Hereby replaced by Net Profit Share.

The lessee agrees to pay a net profit share rate of _____ percent with a ____ capital recovery factor, calculated purduant to 10 CFR 390.

(b) Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations, the term DCM refers to the Deputy Conservation Manager, Offshore Field Operations, Gulf of Mexico OCS Region, U. S. Geological Survey, and the term Manager refers to the Manager of the New Orleans OCS Office of the Bureau of Land Management.

Stipulation No. 1

If the DCM, having reason to believe that a site, structure, or object of historical or archaeological significance (hereinafter referred to as "cultural resource") may exist in the lease area; gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including, but not limited to, well drilling and pipeline and platform placement, (hereinafter referred to as "operation"), the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys, as well as other pertinent natural and cultural environmental data, shall be examined by a qualified marine survey archaeologist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the DCM and to the Manager for review.

If such cultural resource indicators are present, the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the DCM, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the DCM, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the DCM and the Manager for review Should the DCM determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the DCM has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DCM and make every reasonable effort to preserve and protect the cultural resource from damage until the DCM has given directions as to its preservation.

Stipulation No. 2

(To be included only in leases resulting from this sale for tracts 66-121 through 66-211).

Prior to any drilling activity or the construction or placement of any structure for exploration or development on this lease, including but not limited to well drilling and pipeline and platform placement, the lessee will submit to the DCM, as part of his exploration and/or development plan, a bathymetry map, prepared utilizing remote sensing and/or other survey techniques. This map will include interpretations for the presence of live bottom areas within a minimum radius of 1,820 meters of the proposed exploration or production activity site.

For the purpose of this stipulation, "live bottom areas" are defined as those areas which concern biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, or corals living upon and attached to naturally occurring hard or rocky formations with rough broken or smooth topography; or whose lithotope favors the accumulation of turtles, fishes, and other fauna.

If it is determined that the remote sensing data indicate the presence of hard or live bottom areas, the lessee will also submit to the DCM photo-documentation of the sea bottom near proposed exploratory drilling sites or proposed platform locations

If it is determined that live bottom areas might be adversely impacted by the proposed activities, then the DCM will require the lessee to undertake any measure deemed economically, environmentally, and technically feasible to protect live bottom areas These measures may include, but are not limited to, the following:

(a) The relocation of operations to avoid live bottom areas;
(b) The shunting of all drilling fluids and cuttings in such a manner as to avoid live bottom areas;
(c) The transportation of drilling fluids and cuttings to approved disposal sites; and
(d) The monitoring of live bottom areas to assess the adequacy of any mitigating measures taken and the impact of lessee initiated activities

Stipulation No. 3

(To be included only in leases resulting from this sale for tracts 66-121 through 66-211)

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf if such injury or damage to such person or property occurs by reason of the activities of any agency of the U S Government, its contractors or subcontractors, or any of their officers, agents, or employees, being conducted as a part of, or in connection with the programs and activities of the Armament Division, Eglin AFB, FL

Notwithstanding any limitation of the lessee's liability in Sec 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault of the United States, its contractors or subcontractors, or any of their officers, agents, or employees The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and its agents, employees, or invitees, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the Armament Division of Eglin AFB, FL, to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing, or operational activities conducted within designated warning areas.

Necessary monitoring control, and coordination with the lessee, its agents, employees, invitees, independent contractors or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area, provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities

The lessee when operating or causing to be operated on its behalf boat or aircraft traffic into the individual designated warning areas shall enter into an agreement with the commander of the Armament Division, Eglin AFB, FL, on utilizing an individual designated warning area prior to commencing such traffic Such agreement will provide for positive control of boats and aircraft operating in the warning areas at all times.

Stipulation No. 4

(To be included only in leases resulting from this sale for tracts 66-32, 66-33, 66-48, 66-49, 66-50, 66-52, 66-56 through 66-61, 66-106 through 66-112, 66-114, and 66-117 through 66-120).

Portions of this lease may be subject to mass movement of sediments Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the DCM's satisfaction that mass movement of sediments, is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads, and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease block

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for unstable bottom conditions. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas is allowed, all such unstable areas must be mapped. The DCM may also require soil testing before exploration and production operations are allowed.

Stipulation No. 5

(To be included only in the leases resulting from this sale for the net profit share tracts listed in paragraph 4(a) of this notice).

The net profit share payment specified in section 6 of this lease may be satisfied in whole or in part by the lessor taking production in amount rather than in value. However, not more than 16-2/3 percent of the production saved, removed, or sold from the lease area may be taken in amount, except as provided in Sec. 15(d). The net profit share obligations of the lessee shall be calculated to include as a credit, the value of production taken in amount by the lessor.

Stipulation No. 6

(To be included only in the leases resulting from this sale for tracts 66-104, 66-105 and 66-113).

All or portions of this tract may be subject to mass movement of sediments. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the Deputy Conservation Manager's (DCM) satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads, and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease block.

Prior to the emplacement of exploration or production structures or seafloor production equipment, site-specific surveys and analyses must be conducted to determine the potential mass movement of sediments. These may include geophysical surveys, coring, mapping, in situ or laboratory geotechnical analyses, and other studies specified by the DCM. Permissible loading will be determined on the basis of the site-specific studies Any facilities which could overload unstable bottom sediments will be prohibited. Quarters, work areas, and hydrocarbon treating and storage equipment must be isolated or protected from the effects of submarine slides These requirements may necessitate the use of buoyant platforms and storage facilities or remote bottom-founded platforms located in stable sites.

All production wells must be equipped with subsurface-safety devices, as approved by the DCM to automatically prevent the flow of hydrocarbons from the well in the event of damage to the surface-safety systems. Such devices must be located below the zone of potential mass movement.

Information to Lessees. The Department of the Interior will seek the advice of the States of Louisiana, Mississippi, Alabama, and Florida, and other Federal agencies, to identify areas of special concern which might require appropriate protective measures for live bottom areas and areas which might contain cultural resources.

If it is determined that live bottom areas might be adversely affected by the proposed activities, then the Deputy Conservation Manager, Offshore Field Operations, USGS, in consultation with the Regional Director, U.S. Fish and Wildlife Service; the Manager, BLM; the States; EPA; and other Federal agencies with jurisdiction and expertise to protect the environment, will require the lessee, pursuant to Section 5(a) of the Outer Continental Shelf (OCS) Lands Act of 1953, as amended, to undertake any measures to protect live bottom areas.

Operations on some of the tracts offered for lease may be restricted by designation of fairways, precautionary zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S C. 1221 et seq.). Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with Section 4(e) of the OCS Lands Act, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are advised that in accordance with Section 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give

particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or net profit share payment.

Bidders are advised that the Department of Energy is authorized, under Section 302(b) and (c) of the Department of Energy Organization Act, to establish production rates for all Federal oil and gas leases.

Bidders are advised that the West Indian Manatee (sea cow) is a marine mammal which is officially listed as an endangered species by the Department of the Interior. It is protected by the Endangered Species Act of 1973, as amended (86 Stat. 1027, 16 U.S C. 1361-1407), and various other State and Federal laws and regulations. On October 22, 1979 (44 FR 60963), Interior promulgated regulations (50 CFR 17.100-17.108) providing a means for establishing manatee protection areas Also, there is the Florida Manatee Sanctuary Act of 1978 declaring the entire State of Florida as "refuge and sanctuary for the manatee." A Cooperative Agreement between Interior and Florida on endangered species became effective on June 23, 1976.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

/s/ Ed Hastey

Associate Director, Bureau of Land Management

Approved

Date: SEP 14 1981

Certified to be a true copy of the original

Edward J. Leonard

Certifying Officer

Donald Paul Hodel

Acting Secretary of the Interior

[FR Doc. 81-27132 Filed 9-17-81; 8:45 am]
BILLING CODE 4310-84-C

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

Outer Continental Shelf, Gulf of Mexico

Notice of Leasing Systems, Sale No 66

Sec 8(a)(8) (43 U S C 1337 (a)(8)) of the Outer Continental Shelf (OCS) Lands Act, as amended, requires that, at least 30 days before any lease sale, a notice be submitted to the Congress and published in the Federal Register:

(A) identifying the bidding systems to be used and the reasons for such use; and

(B) designating the tracts to be offered under each bidding system and the reasons for such designation

This notice is published pursuant to these requirements

A. Bidding systems to be used. In OCS Sale No. 66, tracts will be offered under the following two bidding systems as authorized by Sec. 8(a)(1) (43 U S C. 1337 (a)(1)): (1) bonus bidding with a fixed net profit share on 65 tracts, and (2) bonus bidding with a fixed 16-2/3 percent royalty on 144 tracts.

(1) Bonus Bidding with a Fixed Net Profit Share. This system is authorized by Sec. 8(a)(1)(D) of the OCS Lands Act, as amended. This system was established by Department of Energy (DOE) regulations effective May 14, 1980 (45 Fed. Reg. 36784 May 30, 1980)). This system has been used in seven previous OCS sales. The profit share system designed for this sale may increase competition by generating greater contingency payments to the Government and thereby reducing the initial cash bonus. It may also increase the volume of production because certain allowable capital costs can be deducted prior to any liability for profit share payments. In addition, the profit share system may foster the development of marginal fields when compared to a royalty system since the Government shares more of the risk and the lessees' incremental costs are lower in the presence of a capital recovery.

A profit share system which uses cash bonus as the bid variable avoids percentage bids at high levels which would make future development either economically inefficient or simply uneconomic. In addition, it is easier to administer and unitize adjacent tracts with similar profit share rates. Furthermore, a fixed profit share better assures that firms who can produce at lower costs are more likely to obtain leases than would be the case if it were possible for less efficient firms to simply bid away higher percentages of lower profits.

For 53 tracts, firms will be permitted a capital recovery factor of 0 25 over their actual allowable costs before any profit share payments are due. Seven tracts will have a capital recovery factor of 0 50 and five tracts will have a 1.00 capital recovery factor. The profit share rate selected for this sale is 50 percent. These parameters were selected on the basis of DOE and DOI studies regarding the effect on bonuses, profit-share payments, Government receipts, gross production, minimal economic tract sizes, and particularly on the incentive to alter the production profile.

(2) Bonus Bidding with a 16-2/3 Percent Royalty. This system is authorized by Sec. (8)(a)(1)(A) of the OCS Lands Act, as amended. This system has been used extensively since the passage of the OCS Lands Act in 1953 and imposes greater risks on the lessee than systems with higher contingency payments, but may yield more rewards if a commercial field is discovered. The relatively high front-end payments required may encourage rapid exploration. The use of this system will provide a data base with which to compare the performance of the alternative systems.

(B) Designation of Tracts. The selection of tracts to be offered under the two systems was based on the following factors:

(1) Lease terms on adjacent tracts were considered in order to reduce administrative costs and barriers to unitization, and to enhance orderly development of each field.

(2) A sufficient number of tracts was needed to permit valid statistical analysis while limiting the risks of losses caused by unforeseen problems which could arise in the use of any new bidding system. The number of tracts must also be consistent with the requirements of Sec. 8(a)(5)(B) of the OCS Lands Act, as amended.

(3) The range and distribution of the characteristics of tracts were to be comparable for statistical purposes. Such characteristics include estimated resources, water depth, structure depth, favorable vs. unfavorable location of tracts on structures, and the location of tracts across trends.

The specific tracts to be offered under each system are as follows.

(a) Bonus Bidding with a Fixed Net Profit Share--Tracts 66-10, 66-11, 66-19, 66-20, 66-21, 66-22, 66-32, 66-33, 66-46, 66-48, 66-49, 66-88, 66-90 through 66-97, 66-100, 66-101, 66-104 through 66-107, 66-113, 66-114, 66-119, 66-120, 66-163, 66-164, 66-167 through 66-184, 66-188, 66-189, 66-190, 66-193 through 66-196, 66-199 through 66-202, and 66-205 through 66-208.

(b) Bonus Bidding with a 16-2/3 Percent Royalty--All remaining tracts.

/s/ Ed Hastey
Associate Director, Bureau of Land Management

Approved:

Certified to be a true copy of the original

Donald Paul Hodel
Acting Secretary of the Interior

SEP 14 1981

Edward J. Lawrence
Certifying Officer

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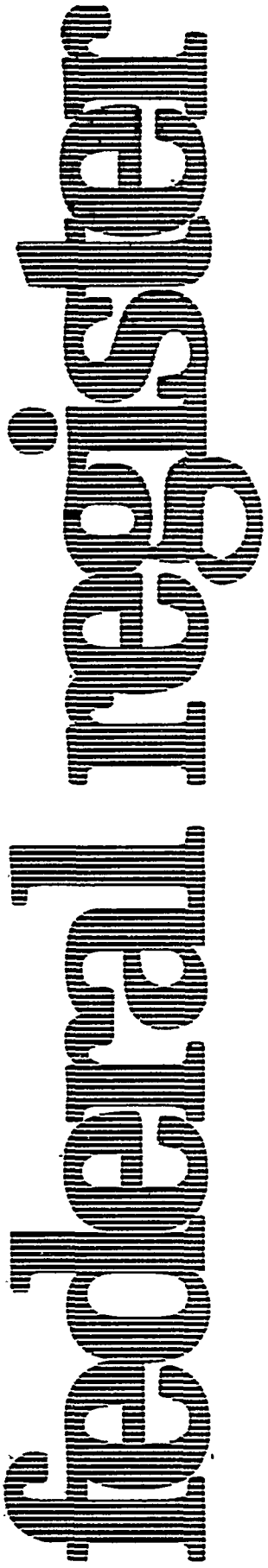

Friday
September 18, 1981

Part IV

Department of the Interior

Fish and Wildlife Service

Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the late open seasons, hunting hours, hunting areas, and daily bag and possession limits for general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and teal in regular seasons; most sandhill crane seasons in the Central Flyway and in Arizona; coots, gallinules, and snipe in the Pacific Flyway; and additional falconry seasons. Taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The rules will permit taking of the designated species during the 1981–82 season within specified periods of time beginning as early as October 1, as has been the case in past years, and benefit the public by opening the seasons which are presently closed.

EFFECTIVE DATE: September 18, 1981.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, Fish and Wildlife Service, Department of the Interior, Washington, D.C., telephone 202–254–3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

On March 25, 1981, the Fish and Wildlife Service (hereinafter the Service) published for public comment in the Federal Register (46 FR 18666) proposals to amend 50 CFR Part 20, with comment periods ending July 16 and August 24, 1981, respectively, for the 1981–82 early and late hunting frameworks. That document dealt with the establishment of hunting seasons, hours, areas, and limits for migratory birds under §§ 20.101 through 20.107 and 20.109 of Subpart K.

On July 8, 1981, the Service published in the Federal Register (46 FR 35316) a second document consisting of a supplemental proposed rulemaking dealing with both the early and late season frameworks. On July 13, 1981, the Service published for public comment in the Federal Register (46 FR 36056) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early season migratory bird hunting regulations. On July 29, 1981, the Service published in the Federal Register (46 FR 38868) a fourth document consisting of a final rulemaking for the early season frameworks for migratory game bird hunting regulations from which State wildlife conservation agency officials selected early season hunting dates, hours, areas, and limits for the 1981–82 season. In a fifth document appearing in the Federal Register on August 17, 1981 (46 FR 41736), the Service published supplemental proposed frameworks for the late hunting seasons. On August 21, 1981, the Service published in the Federal Register (46 FR 42642) a sixth document consisting of a final rule amending Subpart K of 50 CFR 20 to set hunting seasons, hours, areas, and limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in September in four States; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands during 1981–82.

On September 9, 1981, the Service published in the Federal Register (46 FR 45098) a seventh document dealing specifically with final frameworks for late season migratory game bird hunting regulations from which State wildlife agency officials selected season dates and daily bag and possession limits for the 1981–82 season.

This final rulemaking document is the eighth in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending Subpart K of 50 CFR 20 to set hunting seasons and areas, shooting and hawking hours, and bag and possession limits for species subject to late hunting regulations. These regulations will take effect immediately upon publication.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the Federal Register on June 13, 1975 (40 FR 24242). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. The 1975 FES is now out of print but copies of the environmental assessments are available from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Endangered Species Act Consideration

Compliance with Section 7 of the Endangered Species Act, insofar as late season regulations frameworks are concerned, was described in the Federal Register dated August 17, 1981 (46 FR 41736). As a result of intra-Service Section 7 consultation, the Chief, Office of Endangered Species, stated in a biological opinion dated July 30,1981, ". . . your action, as proposed, is not likely to jeopardize the continued existence of the above listed species [Aleutian Canada goose, bald eagle, American peregrine falcon, Arctic peregrine falcon, and whooping crane] and is not likely to result in the destruction or adverse modification of any designated Critical Habitat." As reported in the Federal Register dated July 13, 1981 (at 46 FR 36060), and July 29, 1981 (at 46 FR 38869), Section 7 consultations for the proposed frameworks for Alaska, Puerto Rico, and the Virgin Islands were concluded on May 15, 1981, and for other proposed early season frameworks on June 15, 1981, with satisfactory biological opinions.

The Service wishes to reiterate that delays or closures of migratory bird hunting seasons will be considered and invoked when justified, for the protection of endangered species.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate changes of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinions resulting from its consultation under Section 7 are considered public documents and are available for public inspection in the Office of Endangered Species and the Office of Migratory Bird Management, Department of the Interior.

Non-toxic Shot Regulations

On August 13, 1981, the Service published in the Federal Register (46 FR 40879) final rules under § 20.108 of 50 CFR describing zones in which non-toxic shot is required for waterfowl hunting. These will also be summarized in waterfowl regulations leaflets to be published late this summer. When eaten by waterfowl, spent lead pellets can have a toxic effect. Non-toxic shot zones reduce the availability of lead pellets in selected waterfowl feeding areas.

Regulatory Flexibility Act and Executive Order 12291

Pursuant to Executive Order 12291, the Department has determined that this rule is a major rule, and has significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq). In the Federal Register dated March 25, 1981 (at 46 FR 18669), the Service described measures it was taking to comply with new requirements on Federal agencies in developing new rules. A summary of an initial regulatory impact analysis was included in the same Federal Register.

The Service subsequently completed a final regulatory impact and flexibility analysis (FRIA) on June 30, 1981, and published a summary of it in the Federal Register dated August 21, 1981, at 46 FR 42643.

The Service's FRIA was planned so that it would suffice for both the early and late season final regulations. Copies of the final analysis are available upon request from the Office of Migratory Bird Management, Fish and Wildlife Service, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

Memorandum of Law. Section 4 of Executive Order 12291 requires that certain determinations be made before any final major rule may be approved. Section 4(a) specifies that the regulation must be clearly within the authority of law and consistent with congressional intent, and that a memorandum of law be provided to support that determination. Also, the agency must state that the factual conclusions upon which the law is based have substantial support in the agency record and that full attention has been given to public comments in general, and to comments of persons directly affected by the rule in particular.

The development of the annual migratory bird hunting regulations is provided for under Section 3 of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 701–711). Such regulations have been promulgated annually since 1918. They appear in 50 CFR Part 20, Subpart K. Congressional support for the development of these rules and ancillary activities involved in their development are reflected in the U.S. Fish and Wildlife Service's budget. Among these activities are biological surveys, hunter activity and harvest surveys, research investigations, law enforcement, and administrative costs associated with the development and publication of the proposed and final rules. Many other Service activities, such as the acquisition and management of habitats for migratory birds, indirectly assist in maintaining the migratory bird resource at levels which allow reasonable sport hunting harvest.

In developing its annual hunting rules for 1981–82, the Service published four proposed rules for public comment and conducted two public hearings to facilitate public input into the rulemaking process. Several hundred public comments summarized and responded to in Federal Registers listed in the preamble of this document describe the Service's consideration of the impacts of its proposed rules on the public. Many of these comments originated from affected State conservation agencies, while dozens of communications were submitted by the affected hunting public. In general, the comments strongly supported the Service's initial or supplementary regulatory proposals. The complete administrative record, including copies of public comments, are available for inspection at the Office of Migratory Bird Management.

Consequently, the Department has determined that it has fulfilled requirements of Section 4 of Executive Order 12291 and the Migratory Bird Treaty Act in developing the 1981–82 migratory bird hunting regulations which are adequately supported by the Service's records.

Authorship

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Regulations Promulgation

After analysis of the migratory game bird survey data obtained through investigations conducted by the Service, State conservation agencies, and other sources, and consideration of all comments received on the late season proposals (46 FR 18666, March 25, 1981; 46 FR 35316, July 8, 1981; 46 FR 41736, August 17, 1981), the Service published in the Federal Register on September 9, 1981 (46 FR 45098) final late season frameworks. Copies of the final frameworks were also sent to the officials of the State conservation agencies who were invited to submit selections for hunting seasons and related options which complied with the shooting hours, daily bag and possession limits, season times and lengths, and areas specified in the frameworks.

The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The amendments will permit taking of the designated species within specified time periods beginning as early as October 1 and benefit the public by opening the seasons which are presently closed.

The rulemaking process for migratory bird hunting, must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on March 25, July 8, and August 17, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the printing and distribution of Federal and State regulatory announcements and leaflets would be delayed to the extent that hunters would not have regulatory information available prior to the beginning of the hunting seasons. The Service has determined that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3), and these regulations will, therefore, take effect immediately upon publication.

Accordingly, each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, certain sections of Title 50, Chapter I, Subchapter B, Part 20, Subpart K, are hereby amended.

The late hunting season regulations will not be included in the annual codification of Title 50 CFR, Wildlife and Fisheries, inasmuch as most seasons will have terminated by the time that the annual codification is issued.

Dated: September 10, 1981.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

BILLING CODE 4310-55-M

Section 20 104 is revised to read as follows:

§20 104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are as follows:

	Rails (Sora & Virginia)	Rails (Clapper & King)	Woodcock	Common Snipe
Daily bag limit.	25 (1)	See footnote (2)	5	8
Possession limit	25 (1)	See footnote (2)	10	16
Shooting Hours: One-half hour before sunrise until sunset daily on all species, except as noted otherwise				
CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS				
Seasons in the Atlantic Flyway:				
Connecticut	Sept 1-Nov. 7	Sept. 1-Nov 7	Oct. 17-Dec 5.	Oct 17-Dec 9.
Delaware	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct 12-Oct 31 & Nov 16-Dec. 30	Oct. 12-Oct 31 & Nov 16-Dec. 30
Florida	Sept 2-Nov 10	Sept. 2-Nov 10	Dec 5-Feb 7	Nov 7-Feb. 21.
Georgia	Sept 10-Nov. 18	Sept 10-Nov 18	Nov 20-Jan 23	Nov. 20-Feb 28
Maine	Sept 1-Nov 7	Closed	Sept 25-Nov 28	Sept 1-Dec 15.
Maryland	Sept 1-Nov 9	Sept 1-Nov 9	Oct 12-Nov 27 & Dec 14-Dec 31	Sept 14-Dec 29
Massachusetts	Sept 1-Nov 7	Closed	Oct. 10-Nov 30.	Sept 1-Dec 16.
New Hampshire	Closed.	Closed	Sept 19-Nov 22	Sept 19-Nov. 22
New Jersey: (3)				
North Zone	Sept. 1-Nov 9	Sept 1-Nov 9	Oct 3-Nov 26	Oct 2-Oct 31 & Nov. 9-Jan 23
South Zone	Sept. 1-Nov 9	Sept 1-Nov 9	Oct 24-Dec 5 & Dec 18-Dec 29	Oct 2-Oct 31 & Nov. 9-Jan. 23.
New York: (3)				
Northern Zone including Lake Champlain	Sept 1-Nov. 9	Closed	Sept 20-Nov. 23	Sept. 1-Nov 23
Long Island	Closed	Closed	Oct 1-Nov 23	Closed.
Remainder of State	Sept. 1-Nov. 9	Closed	Sept 20-Nov 23	Sept 1-Nov 23.
North Carolina	Sept. 1-Nov. 9	Sept. 1-Nov 9	Nov 13-Jan 16	Nov. 13-Feb 27
Pennsylvania	Sept 1-Nov. 9	Closed	Oct 17-Dec. 19	Oct. 17-Dec 19
Rhode Island	Sept 16-Nov 24	Sept 16-Nov 24	Oct 17-Dec 4 & Dec 14-Dec. 29	Sept 16-Dec 4 & Dec 14-Dec 31
South Carolina	Oct. 6-Dec 14	Oct 6-Dec 14	Nov 27-Jan 30	Nov. 13-Feb 27.
Vermont	Sept 26-Nov 29	Closed	Sept. 26-Nov 29	Sept 26-Nov. 29
Virginia	Sept 12-Nov. 20	Sept 12-Nov 20	Nov 9-Jan 12	Oct. 17-Jan 31.
West Virginia	Sept 7-Nov 14	Closed	Oct 17-Dec 19	Sept 7-Dec. 22
Seasons in the Mississippi Flyway:				
Alabama	Nov 10-Jan 18	Nov 10-Jan 18	Nov 28-Jan 31	Nov 14-Feb 28
Arkansas	Sept 1-Nov 9	Closed	Nov 1-Jan 4	Nov 21-Feb 28.
Illinois	Sept 1-Nov. 9	Closed	Oct. 1-Dec 4	Sept 12-Dec. 27.
Indiana	Sept 1-Nov 9	Closed.	Sept 19-Nov 22	Sept 1-Dec 16
Iowa (4)	Sept 5-Nov 13	Closed	Sept 19-Nov. 22	Sept 5-Dec 20
Kentucky	Nov 12-Jan 20	Closed.	Oct. 3-Dec. 6	Oct 3-Dec 6.
Louisiana	Sept 19-Nov 27	Sept 19-Nov 27	Dec 12-Feb 14	Nov. 7-Feb 21.
Michigan (5)	Sept 15-Nov 14	Closed	Sept 15-Nov 14	Sept. 15-Nov. 14.
Minnesota	Sept 1-Nov 4	Closed.	Sept. 1-Nov 4	Sept 1-Nov 4.
Mississippi	Oct. 24-Jan 1	Oct 24-Jan. 1	Dec. 26-Feb. 28	Nov 14-Feb 28.
Missouri	Sept 1-Nov 9	Closed.	Oct 1-Dec. 4	Oct. 1-Dec 4.
Ohio	Sept 1-Nov. 9	Closed.	Sept 18-Nov. 21	Sept 1-Nov 28 & Dec 7-Dec. 24.
Tennessee	Dec. 2-Jan. 20.	Closed.	Oct 17-Nov. 22 & Feb 1-Feb. 28,	Nov 19-Feb 28.
Wisconsin	Oct. 4(6)-Oct. 11 & Oct. 17-Nov. 27.	Closed.	Sept. 12-Nov. 15	Oct 4 (6)-Oct. 11 & Oct. 17-Nov. 27.
Seasons in the Central Flyway:				
Colorado (7)	Sept. 1-Nov. 9	Closed.	Closed.	Sept. 1-Dec. 2.
Kansas	Sept. 12-Nov 20	Closed.	Oct. 3-Dec. 6	Sept. 12-Dec. 27.
Montana (7)	Closed.	Closed.	Closed.	Oct. 3-Dec. 1.
Nebraska (8)	Sept. 1-Nov. 9	Closed.	Sept. 15-Nov. 18	Sept. 1-Dec. 15.
New Mexico (7)	Sept 12-Nov 20	Closed.	Closed.	Sept 12-Dec 13
North Dakota	Closed	Closed	Closed.	Sept 12-Nov. 29
Oklahoma	Sept 1-Nov 8	Closed	Nov 20-Jan 23	Oct 20-Feb 3.
South Dakota (9)	Closed	Closed	Closed.	Sept 1-Oct 31
Texas	Sept 1-Nov 9	Sept 1-Nov 9	Dec 12-Feb 14	Nov 1-Feb 14.
Wyoming (7)	Sept 26-Dec 4	Closed.	Closed	Sept 26-Jan 10
Seasons in the Pacific Flyway:				
Arizona	Closed	Closed	Closed	Oct 9-Nov 4 & Nov 13-Jan 17
California:				
Colorado River Zone (3)	Closed.	Closed	Closed	Oct 9-Nov 4 & Nov 13-Jan 17
Remainder of State	Closed	Closed	Closed	Oct. 17-Jan 17.
Colorado (7)	Sept. 1-Nov 9	Closed.	Closed.	Sept. 1-Dec 2.
Idaho:				
Columbia Basin (3)	Closed	Closed	Closed	Oct 3-Jan 10.
Remainder of State	Closed.	Closed	Closed	Oct 3-Jan 3
Montana (7)	Closed.	Closed.	Closed.	Oct 3-Jan. 3
Nevada:				
Clark County	Closed.	Closed.	Closed	Oct. 17-Jan. 17.
Remainder of State	Closed	Closed.	Closed	Oct. 10-Jan. 10.
New Mexico (7)	Sept 12-Nov. 20	Closed	Closed	Sept. 12-Dec. 13.
Oregon	Closed	Closed	Closed	Oct 17-Jan. 17
Utah (6)	Closed.	Closed.	Closed.	Oct 3-Jan 3
Washington:				
Eastern Washington (6)	Closed	Closed	Closed	Oct 10-Jan 17.
Western Washington (6)	Closed.	Closed	Closed	Oct. 10-Jan 10.
Wyoming (7)	Sept. 26-Dec. 4	Closed	Closed	Sept 26-Dec 27.

(1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these two species

(2) In addition to the limits on sora and Virginia rails, in Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, there is a daily bag limit of 10 and possession limit of 20 clapper and king rails, singly or in the aggregate of these two species, except that the season is closed on king rails in New Jersey by State regulation. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, there is a daily bag limit of 15 and possession limit of 30 clapper and king rails, singly or in the aggregate of these two species

(3) For description of zones or management units within a State, see State regulations

(4) In Iowa, shooting hours are sunrise to sunset Rail limits are 15 daily and 25 in possession

(5) In Michigan, in the counties of Arenac, Bay, Huron, Macomb, Monroe, St Clair, Tuscola and Wayne, and adjacent Great Lakes and connecting waters, the rail and snipe seasons shall open concurrently with the duck season and run continuously in all areas through November 14.

(6) In Wisconsin, Utah, and Eastern Washington, on the first day, the season opens at 12 noon; and in Western Washington, on the first day, the season opens at 8 a m

(7) The Central Flyway portion consists of: Colorado and Wyoming — the area lying east of the Continental Divide; Montana — the area lying east of Hill, Chouteau, Cascade, Meagher, and Park Counties; New Mexico — the area lying east of the Continental Divide but outside the Jicarilla Apache Indian Reservation. The remainder portions of these States are in the Pacific Flyway

(8) In Nebraska the rail limits are 10 daily and in possession.

(9) In South Dakota, the snipe limits are 5 daily and 15 in possession.

Section 20.105 is revised to read as follows:

§20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) Sea Ducks.

(1) An open season for taking scoter, eider, and oldsquaw ducks is prescribed according to the following table during the period between September 15, 1981, and January 20, 1982, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the Town of Riverhead to Red Cedar Point in the Town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and, in addition, in any tidal waters of any bay which are separated by at least one mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

(2) The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

(3) Shooting hours are one-half hour before sunrise until sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Seasons in:	
Connecticut	Sept. 25-Jan. 9.
Delaware	Sept. 26-Jan. 9.
Georgia	Nov. 25-Jan. 20.
Maine	Oct. 1-Jan. 15.
Maryland	Oct. 6-Jan. 20.
Massachusetts	Oct. 2-Jan. 16.
New Hampshire	Sept. 15-Dec. 30.
New Jersey	Oct. 6-Jan. 20.
New York (Long Island only)	Sept. 23-Jan. 7.
North Carolina	Oct. 6-Jan. 20.
Rhode Island	Oct. 3-Jan. 17.
South Carolina	Oct. 6-Jan. 20.
Virginia	Oct. 6-Jan. 20.

(4) Notwithstanding the provisions of this Part 20 the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia, and Maryland in those areas described, delineated, and designated in their respective hunting regulations as being open to sea duck hunting.

(b) Teal. September season:

* * * * *

(c) Gallinules.

Limits in the Atlantic, Mississippi, and Central Flyways:	
Daily bag limit	15
Possession limit	30

Limits in the Pacific Flyway:

The daily bag and possession limits are 25 gallinules and coots singly or in the aggregate of these two species.

Shooting hours: One-half hour before sunrise to sunset.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in the Atlantic Flyway:	
Connecticut	Sept. 1-Nov. 7.
Delaware	Sept. 1-Nov. 9.
Florida (1)	Sept. 2-Nov. 10.
Georgia	Oct. 10-Oct. 14 & Nov. 25-Nov. 29 & Dec. 12-Jan. 20.
Maine	Sept. 1-Nov. 7.
Maryland	Sept. 1-Nov. 9.
Massachusetts	Sept. 1-Nov. 7.
New Hampshire	Closed.
New Jersey	Sept. 1-Nov. 9.
New York:	
Long Island	Closed.
Remainder of State	Sept. 1-Nov. 9.
North Carolina	Sept. 1-Nov. 9.
Pennsylvania	Sept. 1-Nov. 9.
Rhode Island	Sept. 16-Nov. 24.
South Carolina	Oct. 6-Dec. 14.
Vermont	Sept. 26-Nov. 29.
Virginia	Oct. 7-Oct. 10 & Nov. 24-Dec. 5 & Dec. 18-Jan. 20.
West Virginia:	
Zone 1	Oct. 1-Oct. 17 & Dec. 15-Jan. 16.
Zone 2	Oct. 1-Oct. 17 & Nov. 3-Dec. 5.
Seasons in the Mississippi Flyway	
Alabama	Nov. 16-Jan. 18.
Arkansas	Nov. 7-Jan. 15.
Illinois	Closed.
Indiana	Sept. 1-Nov. 9.
Iowa	Closed.
Kentucky	Nov. 12-Jan. 20.
Louisiana	Sept. 19-Nov. 27.
Michigan:	
North Zone	Oct. 3-Nov. 21.
South Zone	Oct. 12-Nov. 30.
Minnesota	Oct. 3-Nov. 21.
Mississippi	Sept. 12-Sept. 20 & Oct. 24-Dec. 23.
Missouri	Closed.
Ohio	Sept. 1-Nov. 9.
Tennessee	Dec. 2-Jan. 20.
Wisconsin (2)	Oct. 4-Oct. 11 & Oct. 17-Nov. 27.
Seasons in the Central Flyway:	
Colorado (3)	Closed.
Kansas	Closed.
Montana (3)	Closed.
Nebraska	Closed.
New Mexico (3)	Oct. 27-Jan. 4.
North Dakota	Closed.
Oklahoma	Sept. 1-Nov. 8.
South Dakota	Closed.
Texas	Sept. 1-Nov. 9.
Wyoming (3)	Closed.
Seasons in the Pacific Flyway:	
Arizona	Oct. 9-Nov. 4 & Nov. 13-Jan. 17.
California:	
Colorado River Zone	Oct. 9-Nov. 4 & Nov. 13-Jan. 17.
Remainder of State	Oct. 17-Jan. 17.
Nevada:	
Clark County	Oct. 17-Jan. 17.
Remainder of State	Oct. 10-Jan. 10.
New Mexico (4)	Oct. 3-Jan. 3.
All other States	Closed.

Note: See footnotes to waterfowl tables for descriptions of zones.

(1) The gallinule season in Florida applies to the common gallinule only. There is no open season on the purple gallinule in Florida.

(2) On the first day the season opens at 12 noon.

(3) Seasons apply to Central Flyway portion of State only.

(4) Season and limits apply to Pacific Flyway portion of State only.

(d) Waterfowl and coots in Atlantic, Mississippi, Central, and Pacific Flyways.

ATLANTIC FLYWAY

Flywaywide Restrictions.

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

Wood ducks — No more than 2 wood ducks may be taken daily nor more than 4 wood ducks may be possessed. Exceptions: during duck seasons prior to October 16, 1981, in Georgia, North Carolina, and South Carolina, under conventional regulations, no special restrictions within the regular daily bag and possession limits shall apply to wood ducks; in Virginia, under the point system, the point value of wood ducks shall be 25. The daily bag and possession limit in Vermont is 1 and 2 birds, respectively.

Hooded mergansers — In States selecting conventional regulations, no more than 1 hooded merganser may be taken daily nor more than 2 hooded mergansers may be possessed.

Canvasbacks and redheads — Except in closed areas, the limit on canvasbacks is 1 daily and 1 in possession. The limit on redheads throughout the flyway is 2 daily, except that in areas open to canvasback harvest the daily bag limit is 2 redheads, or 1 redhead and 1 canvasback. The canvasback possession limit is equal to the daily bag limit. The possession limit on redheads is twice the daily bag limit under conventional regulations. Under the point system, canvasbacks (except in closed areas) count 100 points each and redheads flywaywide count 70 points each. Areas closed to canvasback hunting are:

New York — Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls. All waters of Lake Cayuga.

New Jersey — Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

North Carolina — Those portions of the State lying east of U.S. Highway 1.

Maryland and Virginia — The entire State.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS.

The season dates for mergansers and coots are the same as those for ducks in the following tables:

	Season Dates	Limits Bag	Limits Possession
Connecticut			
Ducks:			
North Zone (1)	Oct. 17-Oct. 31 & Nov. 26-Dec. 30.	4	8
South Zone (1)	Oct. 13-Oct. 17 & Nov. 26-Jan. 9.		
including no more than:			
Black ducks		2	4
Mergansers		5	10
Coots		15	30
Geese:			
North Zone	Oct. 17-Jan. 14.		
South Zone	Nov. 2-Jan. 30.		
Canada		3	6
Snow (including blue)		4	8
Brant:		2	4
North Zone	Dec. 16-Jan. 14.		
South Zone	Dec. 22-Jan. 20.		
Delaware			
Ducks:	Oct. 1-Oct. 3 & Nov. 2-Nov. 28 & Dec. 21-Jan. 9.	5	10
including no more than:			
Black ducks		1	2
Mergansers		5	10
Coots		15	30
Geese:			
Canada	Nov. 2-Jan. 30.	4	8
Snow (including blue)	Nov. 2-Jan. 30.	4	8
Brant	Nov. 30-Dec. 29	2	4
Florida			
Ducks	Nov. 25-Dec. 6 & Dec. 12-Jan. 18.	Point system.	
Coots		15	30
Geese	Closed.	-	-
Georgia			
Ducks:	Oct. 10-Oct. 14 (2) & Nov. 25-Nov., 29 & Dec. 12-Jan. 20.	5	10
including no more than:			
Black ducks		1	2
Mergansers		5	10
Coots		15	30
Geese	Closed.	-	-
Brant	Closed.	-	-
Maine			
Ducks:		4	8
North Zone (Wildlife Management Units 1-5)	Oct. 1-Nov. 19.		
South Zone (Wildlife Management Units 6-8)	Oct. 1-Oct. 17 & Nov. 17-Dec. 19.		
including no more than Black ducks		2	4
Mergansers		5	10
Coots		15	30
Geese:			
including no more than:			
Canada	Oct. 1-Dec. 9	3	6
Snow (including blue)	Oct. 1-Dec. 29.	4	8
Brant	Oct. 1-Oct. 30.	2	4
Maryland			
Ducks (except canvasbacks):	Oct. 8-Oct. 10 & Nov. 13-Nov. 27 & Dec. 9-Jan. 9.	Point system.	
Canvasbacks	Season closed.		
Coots		15	30
Geese:			
Canada:			
Delmarva Peninsula (3)	Oct. 23-Nov. 27 & Dec. 8-Jan. 30.	3	6
Remainder of State	Oct. 30-Nov. 27 & Dec. 11-Jan. 20.	3	6
Snow (including blue)	Oct. 23-Nov. 27& Dec. 8-Jan. 30.	4	8
Brant	Dec. 11-Jan. 9.	2	4
Massachusetts			
Ducks:		4	8
Inland Zone	Oct. 14-Nov. 14 & Nov. 25-Dec. 12.		
Coastal Zone	Oct. 22-Oct. 31 & Nov. 24-Jan. 2.		
including no more than:			
Black ducks		2	4
Mergansers		5	10
Coots		15	30
Geese:			
Inland Zone	Oct. 14-Dec. 22.		
Coastal Zone	Oct. 22-Nov. 6 & Nov. 24-Jan. 16.		
Canada		3	6
Snow (including blue)		4	8
Brant:			
Inland Zone	Closed.		
Coastal Zone	Nov. 24-Dec. 23.	2	4
New Hampshire			
Ducks:		4	8
Inland Zone	Oct. 7-Nov. 25.		
Coastal Zone	Oct. 7-Oct. 18 & Nov. 7-Dec. 14.		
including no more than:			
Black ducks		2	4
Mergansers		5	10
Coots		15	30
Geese:			
Canada	Oct. 7-Dec. 15.	3	6
Snow (including blue)	Oct. 7-Jan. 4.	4	8
Brant:		2	4
Inland Zone	Oct. 7-Nov. 5.		
Coastal Zone	Nov. 7-Dec. 6.		
New Jersey			
Ducks:		Point system (5).	
North Zone (4)	Oct. 2-Oct. 31 & Dec. 14-Jan. 2.		
South Zone (4)	Oct. 24-Oct. 31 & Nov. 14-Dec. 25.		
Coastal Zone (4)	Oct. 24-Oct. 31 & Nov. 26-Jan. 6.		
Coots		15	30
Geese:			
Canada	Oct. 2-Oct. 31 & Nov. 25-Jan. 23.	4	8
Snow (including blue)	Oct. 2-Oct. 31 & Nov. 7-Jan. 5.	4	8
Brant	Oct. 24-Oct. 31 & Nov. 26-Dec. 17.	2	4
New York			
Long Island Area:			
Ducks:	Nov. 18-Jan. 6.	4	8
including no more than:			
Black ducks		2	4
Mergansers		5	10
Coots		15	30
Geese:	Nov. 18-Jan. 31.		
Canada		3	6
Snow (including blue)		4	8

	Season Dates	Limits Bag	Limits Possession
Brant	Dec. 8–Jan. 6.	2	4
Lake Champlain Area:			
Ducks:	Oct. 10 (12)–Nov. 28	4	8
including no more than:			
Black ducks		2	4
Mergansers		5	10
Coots		15	30
Geese:	Oct. 10 (12)–Dec. 18.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 10 (12)–Nov. 8.	2	4
North Zone (6):			
Ducks:	Oct. 7–Nov. 1 & Nov. 13–Dec. 6.	5	10
including no more than:			
Black ducks		1	2
Mergansers		5	10
Coots		15	30
Geese:	Oct. 7–Jan. 4.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 21–Nov. 19.	2	4
South Zone (6):			
Ducks:	Oct. 14–Oct. 25 & Nov. 6–Dec. 13.	5	10
including no more than:			
Black ducks		1	2
Mergansers		5	10
Coots		15	30
Geese:	Oct. 7–Jan. 4.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 21–Nov. 19.	2	4
West Zone (6):			
Ducks:	Oct. 14–Nov. 19 & Dec. 23–Jan. 4.	5	10
including no more than:			
Black ducks		1	2
Mergansers		5	10
Coots		15	30
Geese:	Oct. 7–Jan. 4.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 21–Nov. 19.	2	4
North Carolina			
Ducks:	Oct. 1–Oct. 3 (2) & Nov. 26–Nov. 28 & Dec. 8–Jan. 20.	5	10
including no more than:			
Black ducks		1	2
Mergansers		5	10
Coots		15	30
Geese:			
Canada	Nov. 26–Nov. 28 & Dec. 11–Jan. 20.	1	2
Snow (including blue)	Nov. 2–Jan. 30.	4	8
Brant	Dec. 22–Jan. 20	2	4
Pennsylvania			
Ducks:		4	8
including no more than:			
Black ducks		2	4
Wood ducks		2	4
North Zone (7)	Oct. 3 (8)–Nov. 21.		
South Zone (7)	Oct. 17 (8)–Oct. 24 & Nov. 9–Dec. 19.		
Northwest Zone (7)	Oct. 10 (8)–Oct. 17 & Oct. 26 (8)–Dec. 5.		
Lake Erie Zone (7)	Oct. 24 (8)–Dec. 12.		
Mergansers		5	10
Coots		15	30
Geese:			
Canada		3	6
Snow (including blue)		4	8
North Zone (7)	Oct. 3 (8)–Dec. 11.		
South Zone (7), (9)	Oct. 17 (8)–Dec. 24.		
Northwest Zone (7), (9)	Oct. 10 (8)–Dec. 18.		
Lake Erie Zone (7), (9)	Oct. 17 (8)–Dec. 24.		
Canada (in Southeastern Zone only) (9), (10)	Oct. 17 (8)–Jan. 14.	4	8
Brant	Oct. 24 (8)–Nov. 21.	2	4
Rhode Island			
Ducks:	Oct. 8–Oct. 12 & Nov. 25–Jan. 8.	4	8
including no more than:			
Black ducks		2	4
Wood ducks		2	4
Mergansers		5	10
Coots		15	30
Geese:			
Canada	Oct. 8–Oct. 12 & Nov. 7–Jan. 30.	3	6
Snow (including blue)		4	8
Brant	Dec. 22–Jan. 20.	2	4
South Carolina			
Ducks:	Oct. 8–Oct. 10 (2) & Nov. 25–Nov. 28 & Dec. 9–Jan. 20.	5	10
including no more than:			
Black duck (11)		1	2
Mottled duck	Closed.	–	–
Mergansers		5	10
Coots		15	30
Geese:			
Anderson, Beaufort, Chester, Colleton, Fairfield, McCormick, Newberry, Oconee, and Richland Counties	Closed.	–	–
Remainder of State	Oct. 8–Oct. 10 & Nov. 25–Nov. 28 & Dec. 9–Jan. 20.		
Canada		1	2
Snow (including blue)		4	8
Brant	Dec. 22–Jan. 20.	2	4
Vermont			
Ducks:	Oct. 10 (12)–Nov. 28	4	8
including no more than:			
Black ducks		2	4
Wood ducks		1	2
Mergansers		5	10
Coots		15	30
Geese (13):	Oct. 10 (12)–Dec. 18.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 10 (12)–Nov. 8.	2	4
Virginia			
Ducks (except canvasbacks):	Oct. 7–Oct. 10 & Nov. 24–Dec. 5 & Dec. 18–Jan. 20.	Point system (1)	
Canvasbacks	Season closed.	–	–
Coots		15	30
Geese:			
Canada:			
Back Bay Area (15)	Oct. 7–Oct. 10 & Nov. 24–Dec. 5 & Dec. 18–Jan. 20.	2	4
Delmarva Peninsula Area	Nov. 3–Jan. 30.	4	8
Remainder of State	Nov. 12–Jan. 20.	3	6
Snow (including blue):			
Back Bay Area (16)	Nov. 24–Dec. 5 & Dec. 18–Jan. 20.	4	8
Remainder of State	Nov. 3–Jan. 30.	4	8
Brant	Dec. 18–Jan. 16.	2	4
West Virginia			
Ducks:		4	8
Allegheny Mountain Upland Zone (Zone 2) (17)	Oct. 1–Oct. 17 & Nov. 3–Dec. 5.		
Remainder of State (Zone 1)	Oct. 1–Oct. 17 & Dec. 15–Jan. 16.		
including no more than:			
Black ducks		2	4
Canvasbacks		1	1
Redheads		1	1
Mergansers		5	10
Coots		15	30
Geese:			
Allegheny Mountain Upland Zone (Zone 2) (17)	Oct. 1–Oct. 17 & Nov. 3–Dec. 5.		
Remainder of State (Zone 1)	Oct. 1–Oct. 17 & Dec. 15–Jan. 16.		
Canada		1	1
Snow (including blue)		4	8
Brant	Closed.	–	–

(1) In Connecticut, the North Zone is that portion of the State north of Interstate 95. The South Zone is that portion of the State south of Interstate 95.

(2) No special daily bag and possession limit restrictions apply to wood ducks in Georgia during October 10–October 14, in South Carolina during October 8–October 10, and in North Carolina during October 1–October 3. In North Carolina the sea duck season is closed during the period October 1 through October 3.

(3) In Maryland, the Delmarva Peninsula includes the counties of Caroline, Cecil, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester.

(4) In New Jersey, the Coastal Zone is that portion of the State seaward of a continuous line beginning at the New York State boundary line in Raritan Bay; then west along the New York boundary line to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with the Garden State Parkway; then south on the Garden State Parkway to the shoreline at Cape May City and continuing to the Delaware boundary in Delaware Bay. The North Zone is that portion of the State west of the Coastal Zone and north of a boundary formed by Route 70, west to the New Jersey Turnpike, north on the turnpike to Route 206, north on Route 206 to Route 1, Trenton, west on Route 1 to the Pennsylvania State boundary in the Delaware River. The South Zone is that portion of the State not within the North Zone or the Coastal Zone.

(5) In New Jersey, the green-winged teal is assigned 25 points.

(6) In New York, the West Zone is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border. The North and South Zones are bordered on the west by the boundary described above and are separated from each other as follows: starting at the intersection of Interstate Highway 81 and State Route 49 and extending easterly along State Route 49 to its junction with State Route 365 at Rome, then easterly along State Route 365 to its junction with State Route 28 at Trenton; then easterly along State Route 28 to its junction with State Route 29 at Middleville, then easterly along State Route 29 to its intersection with Interstate Highway 87 at Saratoga Springs, then northerly along Interstate Highway 87 to its junction with State Route 9, then northerly along State Route 9 to its junction with State Route 149, then easterly along State Route 149 to its junction with State Route 4 at Fort Ann, then northerly along State Route 4 to its intersection with the New York/Vermont boundary.

(7) In Pennsylvania, the Lake Erie Zone includes the Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula. The North Zone includes that portion of the State north of I-80 from the New Jersey State line west to the junction of State Route 147, then north on State Route 147 to the junction of Route 220, then west and/or south on Route 220 to the junction of I-80, then west on I-80 to its junction with the Allegheny River, and then north along but not including the Allegheny River to the New York border. The Northwest Zone includes that portion of the State bounded on the north by the Lake Erie Zone and the New York line, on the east by and including the Allegheny River, on the south by Interstate Highway I-80, and on the west by the Ohio line. The South Zone is the remaining portion of the State.

(8) In Pennsylvania, on the first day, the waterfowl season in the North, Northwest, and South Duck Zones and in the Southeastern Canada Goose Zone opens at 8 a.m. On October 31, shooting hours are from 9 a.m. to sunset statewide. Except on October 31, shooting hours in the Lake Erie Zone are one-half hour before sunrise to sunset. Shot size larger than BB is prohibited for taking migratory game birds.

(9) In Pennsylvania, in Butler, Crawford, Erie, and Mercer Counties, and in the controlled shooting section of the Middle Creek Wildlife Management Area, the Canada goose daily bag limit is 1 and the possession limit is 2.

(10) In Pennsylvania, the Southeastern Zone (for Canada geese only) is that portion of the State lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border.

(11) The season is closed on black ducks in Georgetown, Charlestown, and Colleton Counties.

(12) In Vermont and in the Lake Champlain Zone of New York, on opening day shooting hours are from 8 a.m. to sunset. The remaining days are one-half hour before sunrise to sunset.

(13) See State regulations for further limit restrictions for Dead Creek Area, Addison County, Vermont.

(14) In Virginia, the wood duck is assigned 25 points during the October 7-October 10 season.

(15) In Virginia, the Back Bay Area is defined for Canada geese as those portions of the cities of Virginia Beach and Chesapeake lying east of U.S. Highway 17 and Interstate 64.

(16) In Virginia, the Back Bay Area is defined for snow (including blue) geese as the waters of Back Bay and its tributaries and the marshes adjacent thereto, and on the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and on and along the shore of North Landing River and the marshes adjacent thereto, and on and along the shores of Lake Tecumseh and Red Wing Lake and the marshes adjacent thereto.

(17) In West Virginia the Allegheny Mountain Upland Zone (Zone 2 in State regulations) is contained within the following circumscribed boundaries. The north boundary is the State line adjacent to Pennsylvania and Maryland. The eastern boundary extends south along U.S. Route 220 through Keyser, West Virginia, to the intersection of U.S. Route 50, and follows U.S. Route 50 to the intersection with State Route 93. The boundary follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg. At Petersburg, the boundary follows State Route 28 south to Minnehaha Springs, and then follows State Route 39 west to U.S. Route 219 and follows 219 south to the intersection of Interstate 64. The southern boundary follows I-64 west to the intersection with U.S. Route 60, and follows Route 60 west to the intersection of U.S. Route 19. The western boundary follows Route 19 north to the intersection of I-79, and follows I-79 north to the Pennsylvania State line. The Remainder of the State (Zone 1 in State regulations) is that portion outside the above boundaries.

MISSISSIPPI FLYWAY

Shooting hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS.

The season dates for mergansers and coots are the same as those for ducks in the following tables.

	Season Dates	Limits Bag	Limits Possession
Alabama			
Ducks (1):		Point system.	
North Zone (2)	Dec. 2-Jan. 20.		
South Zone (2)	Nov. 19-Nov. 29 & Dec. 10-Jan. 17.		
Coots		15	30
Geese:		5	10
Barbour, Henry, and Russell Counties	Closed.	-	-
Pickwick, Wilson, and Wheeler Reservoirs west of U.S. Highway 31	Dec. 2-Jan. 20.		
Remainder of State	Nov. 12-Jan. 20.		
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue)		5	10
Arkansas			
Ducks	Nov. 24-Dec. 13 & Dec. 19-Jan. 17.	Point system.	
Coots		15	30
Geese:		5	10
Canada	Closed.	-	-
Other geese	Nov. 12-Jan. 20.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue)		5	10
Illinois			
Ducks (1):		Point system.	
North Zone (3)	Oct. 14-Dec. 2.		
Central Zone (3)	Oct. 22-Dec. 10.		
South Zone (3)	Oct. 29-Dec. 17.		
Coots		15	30
Geese (4), (6):		5	10
North Zone (3)			
Canada	Oct. 14-Dec. 2.		
Snow (including blue) and white-fronted	Oct. 14-Dec. 22.		
Central Zone (3)			
Canada	Oct. 22-Dec. 10.		
Snow (including blue) and white-fronted	Oct. 22-Dec. 30.		
South Zone (3)			
Alexander, Jackson, Union, and Williamson Counties (5)	Nov. 9-Dec. 28.		
Remainder of South Zone			
Canada	Nov. 12-Dec. 31.		
Snow (including blue) and white-fronted	Oct. 29-Jan. 6.		
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue)		5	10
Indiana			
Ducks:		Point system.	
North Zone (7)	Oct. 24-Dec. 12.		
South Zone (7)	Nov. 14-Jan. 2.		
Coots		15	30
Geese:		5	10
North Zone	Oct. 24-Jan. 1.		
South Zone			
Canada (except Posey County)	Nov. 12-Jan. 20.		
Canada (Posey County)	Dec. 2-Jan. 20.		
Snow (including blue) and white-fronted	Nov. 12-Jan. 20.		
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue)		5	10

	Season Dates	Limits Bag	Limits Possession
Iowa			
Ducks (1)	Oct. 17-Nov. 30.	Point system.	
Coots		15	30
Geese	Oct. 3-Dec. 11.	5	10
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue)		5	10
Kentucky			
Ducks	Nov. 21-Nov. 28 & Dec. 10-Jan. 20.	Point system.	
Coots		15	30
Geese		5	10
Ballard, Carlisle, Fulton, and Hickman Counties (6)	Dec. 2-Jan. 20.		
Remainder of State	Nov. 12-Jan. 20.		
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue)		5	10
Louisiana			
Ducks (1):		Point system.	
East Zone (8)	Nov. 14-Nov. 30 & Dec. 19-Jan. 20.		
West Zone (8)	Nov. 7-Dec. 6 & Dec. 19-Jan. 12.		
Coots		15	30
Geese:			
Canada	Closed.	-	-
Other Geese:		5	10
East Zone (8)	Nov. 14-Nov. 30 & Dec. 19-Feb. 9.		
West Zone (8)	Nov. 7-Dec. 6 & Dec. 19-Jan. 27.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue)		5	10
Michigan			
Ducks (1):		Point system.	
North Zone (9)	Oct. 3-Nov. 21.		
South Zone (9)	Oct. 12-Nov. 30.		
Coots		15	30
Geese:		5	10
North Zone (9)	Oct. 3-Nov. 21.		
South Zone (9), (11), (12)	Oct. 12-Nov. 30.		
Limits include no more than:			
Canada (10), (11), (12)		1	2
White-fronted		2	4
Snow (including blue)		5	10
Minnesota (13)			
Ducks (1):	Oct. 3-Nov. 21.	5	10
Limits include no more than:			
Mallards (no more than 2 female mallards daily or 4 in possession)		3	6
Black ducks		1	2
Wood ducks		2	4
Canvasbacks (except in closed areas)		1	2
Redheads		1	2
Mergansers		5	10
Limits include no more than:			
Hooded mergansers		1	2
Coots		15	30
Geese:		5	10
Lac Qui Parle Quota Zone (4), (14)	Oct. 3-Nov. 21.		
Limits include no more than:			
Canada		1	4
White-fronted		2	4
Snow (including blue)		5	10
Southeastern Zone (14)	Oct. 3-Dec. 11.		
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue)		5	10
Remainder of State	Oct. 3-Nov. 21.		
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue)		5	10
Mississippi			
Ducks	Dec. 12-Dec. 13 & Dec. 15-Jan. 31.	Point system.	
Coots		15	30
Geese:		5	10
Canada:			
Sardis Reservoir Area (15)	Nov. 7-Dec. 16.	1	2
Remainder of State	Closed.	-	-
Other geese	Oct. 3-Nov. 1 & Dec. 12-Jan. 20.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue)		5	10
Missouri			
Ducks (1):		Point system.	
North Zone (16)	Oct. 17-Oct. 21 & Oct. 31-Dec. 14.		
South Zone (16)	Oct. 31-Dec. 14 & Dec. 26-Dec. 30.		
Coots		15	30
Geese (6):		5	10
Canada:			
Southeastern Area (east of U.S. Highway 67 and south of Crystal City)	Dec. 2-Jan. 20.	2	4
Swan Lake Zone (4), (17)	Oct. 31-Jan. 8.	See footnote 18.	
Remainder of State	Oct. 31-Dec. 14.	2	4
White-fronted	Oct. 31-Jan. 8.	2	4
Snow (including blue)	Oct. 31-Jan. 8.	5	10
Ohio			
Pymatuning Area (17), (19):	Oct. 10-Oct. 17 & Oct. 26-Dec. 5.	4	8
Ducks:			
Limits include no more than:			
Black ducks		2	4
Wood ducks		2	4
Canvasbacks		1	1
Redheads		2	4
Canvasbacks and redheads combined		2	3
Coots		15	30
Mergansers (except hooded)		5	10
Hooded mergansers		1	2
Geese:	Oct. 10-Dec. 18.		
Limits include no more than:			
Canada		3	6
Snow (including blue)		4	8
Remainder of State:			
Ducks (1):		5	10
North Zone (20)	Oct. 16-Nov. 28 & Dec. 28-Jan. 2.		
South Zone (20)	Oct. 23-Oct. 31 & Nov. 23-Jan. 2.		
Limits include no more than:			
Mallards (no more than 2 female mallards daily or 4 in possession		3	6
Black ducks		1	2
Wood ducks		2	4
Canvasbacks (except in closed areas)		1	2
Redheads		1	2
Coots		15	30
Geese	Oct. 16-Dec. 18 & Dec. 28-Jan. 2.	5	10
Limits include no more than:			
Canada:			
Ashtabula, Auglaize, Erie, Lucas, Marion, Mercer, Ottawa, Sandusky, Trumbull, and Wyandot Counties		1	2
Remainder of State		2	4
White-fronted		2	4
Snow (including blue)		5	10
Tennessee			
Ducks (1):		Point system.	
Reelfoot Zone (21)	Nov. 7-Dec. 26.		
Remainder of State	Dec. 2-Jan. 20.		
Coots		15	30
Geese:		5	10
Canada (22):			
Northwest Goose Zone	Dec. 2-Jan. 20.		
Southwest Goose Zone	Closed.	-	-
Remainder of State	Nov. 12-Jan. 20.		
Other geese:			
Northwest Goose Zone (22)	Dec. 2-Jan. 20.		
Remainder of State	Nov. 12-Jan. 20.		
Limits include no more than:			
Canada:			
West of State Highway 13		2	4
Remainder of State		1	2
White-fronted		2	4
Snow (including blue)		5	10
Wisconsin			
Ducks (1)	Oct. 4 (23)-Oct. 11 & Oct. 17-Nov. 27.	Point system (24).	
Coots		15	30
Geese (17):		5	10

	Season Dates	Limits Bag	Limits Possession
Canada:			
Horicon Zone	Oct. 4 (23)-Nov. 22.	1	1
Central Zone	Oct. 4 (23)-Oct. 11 & Oct. 17-Nov. 27.	1	1
Mississippi River Zone	Oct. 4 (23)-Oct. 11 & Oct. 17-Dec. 17.	1	2
Remainder of State	Oct. 4 (23)-Oct. 11 & Oct. 17-Nov. 27.	1	2
Other geese:			
Horicon Zone	Oct. 4 (23)-Dec. 12.		
Remainder of State	Oct. 4 (23)-Oct. 11 & Oct. 17-Dec. 17.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue)		5	10

(1) The areas closed to canvasback hunting are:

Mississippi River — Entire River, both sides, from Alton Dam upstream to Prescott, Wisconsin, at confluence of St. Croix River.

Alabama — Baldwin and Mobile Counties.

Louisiana — Caddo, St. Charles, and St. Mary Parishes; that portion of Ward 1 formerly designated as Ward 6 of St. Martin Parish; and Catahoula Lake in LaSalle and Rapides Parishes.

Michigan — Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in Sec. 6, T18N, R7E (Arenac County) to Sand Point in Sec. 11, T17N, R9E (Huron County), the St. Clair River, Lake St. Clair, the Detroit River and Lake Erie, under the jurisdiction of the State of Michigan.

Minnesota — Douglas, Mahnomen, Polk, Pope, and Sibley Counties. Where the county line of any of the above counties crosses any portion of a lake, that entire lake is closed. In addition, all land in Sec. 13, T130N, R31W (i.e., land between Lake Christina and Pelican Lake) is closed.

Ohio — Land and water areas comprising Erie, Ottawa, and Sandusky Counties.

Tennessee — Kentucky Lake lying north of Interstate Highway 40.

Wisconsin — In the Mississippi River Zone, all that portion of Wisconsin west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin, and Pierce Counties. Also, the following lakes and waters, including a strip of land 100 yards wide adjacent to the shorelines thereof: Lake Poygan in Winnebago and Waushara Counties and Lakes Winneconne and Butte des Morts, including the connecting waters thereof, in Winnebago County.

(2) In Alabama, the South Zone consists of Mobile and Baldwin Counties. The North Zone consists of the remainder of Alabama.

(3) In Illinois, the North Zone is that portion of the State north of a line running east from the Iowa border along Illinois Highway 17 to I-74, north along I-74 to I-80, then east along I-80 to the Indiana border. The Central Zone is that portion of the State between the North and South Zone boundaries. The South Zone is that portion of the State south of a line running east from the Missouri border along Illinois Highway 150 to Illinois Highway 4, north along Illinois Highway 4 to Illinois Highway 15, east along Illinois Highway 15 to I-57, north along I-57 to I-70, then east along I-70 to the Indiana border.

(4) The harvest of Canada geese will be limited to 30,000 birds in Illinois, 20,000 in Wisconsin, 20,000 in the Swan lake Zone of Missouri, and 5,500 in the Lac Qui Parle Zone of Minnesota. When it is determined by the Director, U.S. Fish and Wildlife Service, that the quota of Canada geese allotted to the Southern Illinois Zone and the Swan Lake Zone of Missouri will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

(5) Shooting hours for geese are sunrise until 3 p.m.

(6) Geese taken in Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of licensed waterfowl hunters, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be labeled with the name and address of the taker and the date taken.

(7) In Indiana, the North Zone consists of that portion of the State north of State Highway 18. The South Zone consists of the remainder of Indiana.

(8) In Louisiana, the West Zone is described as follows: that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Bossier City; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass. The East Zone consists of the remainder of Louisiana.

(9) In Michigan, the North Zone is that portion of the State north of a line extending east from the mouth of the Manistee River along the north bank to the U.S. 31 bridge, north on U.S. 31 to M-55, east on M-55 to M-37, south on M-37 to M-82, east on M-82 to U.S. 131, north on U.S. 131, then east on M-46 to Port Sanilac. The South Zone is the remainder of Michigan.

(10) In Michigan, in Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee, and Ontonagon Counties, the Canada goose limits are 2 daily and 4 in possession.

(11) In Michigan, in the Southeastern Canada Goose Management Area (described in State regulations), the Canada goose hunting season will extend from October 12 through January 17. Through November 14, the Canada goose limits are 1 daily and 2 in possession; from November 15 through November 30, the limits are 2 daily and 4 in possession; for the remainder of the season the limits are 3 daily and 6 in possession.

(12) In Michigan, in the Saginaw County Goose Management Area (described in State regulations), the Canada goose hunting season is October 3-November 30. See State regulations for further restrictions.

(13) In Minnesota, the shooting hours for waterfowl vary as follows: October 3 — 12 noon to 4 p.m., October 4 through October 16 — 1/2 hour before sunrise to 4 p.m., and October 17 through December 11 — 1/2 hour before sunrise to sunset.

(14) In Minnesota, the Lac Qui Parle Zone and the Southeastern Zone are described in State regulations.

(15) In Mississippi, the Sardis Reservoir Area is that area encompassed by Interstate Highway 55 on the west, State Highway 7 on the east, State Highway 310 on the north, and State Highway 6 on the south.

(16) In Missouri, the North Zone is that portion of the State north of a line running east from the Kansas border along U.S. Highway 54 to U.S. Highway 65, south along U.S. Highway 65 to State Highway 32, east along State Highway 32 to State Highway 72, east along State Highway 72 to State Highway 34, then east along State Highway 34 to the Illinois border. The South Zone is the remainder of the State.

(17) See State regulations for zone/area descriptions.

(18) In the Swan Lake Zone of Missouri, through November 20, the Canada goose limits are 1 daily and 4 in possession. After November 20, the limits are 2 daily and 4 in possession.

(19) Shooting hours are 1/2 hour before sunrise to sunset, except on the first day shooting begins at 8 a.m.

(20) In Ohio, the North Zone consists of the counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingum, Guernsey, Harrison, and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highway 204, and on the east by State Highway 13. The South Zone consists of the remainder of the State.

(21) In Tennessee, the Reelfoot Zone is defined as those portions of Lake and Obion Counties enclosed by the following boundaries: Highway 78 on the west, Highway 21 on the south, and Highways 22 and 157 on the east.

(22) In Tennessee, the Northwest Goose Zone includes Lake, Obion, Weakley, and Carroll Counties, and those portions of Gibson and Dyer Counties north and east of a line formed by State Highways 20 and 104 from the Mississippi River to Trenton and U.S. Highway 45W from Trenton to Humboldt. The Southwest Goose Zone is that portion of Tennessee bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45. The season on Canada geese is also more restrictive or closed in other specific areas. See State regulations.

(23) On the first day the season opens at 12 noon.

(24) In Wisconsin, point values for some species change during the season. See State regulations.

CENTRAL FLYWAY

The Central Flyway consists of Colorado (east of the Continental Divide), Kansas, Montana (east of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nebraska, New Mexico (east of the Continental Divide and outside the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Dark Geese include Canada geese and white-fronted geese.
Light Geese include snow (and blue) geese and Ross' geese.

Flywaywide Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise noted.

Mergansers — All mergansers are to be included within the daily bag and possession limits under conventional and point system regulations.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS.

The season dates for mergansers and coots are the same as those for ducks in the following tables:

	Season Dates	Limits Bag	Limits Possession
Colorado			
Ducks	Oct. 3-Oct. 18 & Oct. 31-Nov. 29 & Dec. 12-Jan. 17.	Point system.	
Coots		15	30
Geese (1):		2	4
North Central Unit	Oct. 31-Jan. 17.		
South Park Unit	Nov. 7-Dec. 31.		
San Luis Valley Unit	Nov. 7-Dec. 31.		
Arkansas Valley Unit (2)	Nov. 7-Jan. 17.		
Remainder of State in Central Flyway	Nov. 7-Jan. 17.		
Kansas (4)			
Ducks:		Point system.	
High Plains Area	Oct. 10-Dec. 6 & Dec. 12-Jan. 5.		
Low Plains Area			
Zone 1 (3)	Oct. 24-Dec. 6 & Dec. 26-Jan. 10.		
Zone 2 (3)	Oct. 31-Dec. 13 & Dec. 26-Jan. 10.		
Coots		15	30
Geese (4):			
Dark geese			
Canada	Oct. 24-Nov. 29.	2	4
Canada and white-fronted	Oct. 24-Nov. 29	2	4
Canada and white-fronted	Nov. 30-Jan. 3.	1	2
Light geese	Oct. 17-Jan. 10.		
Snow (including blue) and Ross'		5	10
Montana			
Ducks	Oct. 3-Dec. 1 & Dec. 12-Jan. 3.	Point system.	
Coots		15	30
Geese:	Oct. 3-Jan. 3.		
Sheridan County		2	4
Remainder of State in Central Flyway		3	6
Nebraska			
Ducks		Point system.	
High Plains Area	Oct. 3-Oct. 4 & Oct. 10-Oct. 11 & Oct. 24-Jan. 10.		
Low Plains Area			
Zones 1 and 2 (3)	Oct. 24-Dec. 22.		
Zones 3 and 4 (3)	Oct. 3-Dec. 1.		
Coots		15	30
Geese:			
Dark			
Unit 1 (5)			
Canada and white-fronted combined	Oct. 10-Nov. 13.	1	2
Canada	Nov. 14-Dec. 27	2	4
Canada and white-fronted combined		1	2
Unit 2 (5)			
Canada	Oct. 10-Nov. 22.	2	4
Canada and white-fronted combined		2	4
Canada	Nov. 23-Dec. 20.	1	2
White-fronted		1	2
Unit 3 (5)			
Canada	Oct. 17-Nov. 22.	2	4
Canada and white-fronted combined		2	4
Canada	Nov. 23-Dec. 27.	1	2
White-fronted		1	2
Light Geese	Oct. 3-Dec. 27.		
Snow (including blue) and Ross'		5	10
New Mexico			
Ducks	Oct. 27-Jan. 17.	Point system.	
Coots		15	30
Geese:		5	10
In Bernalillo, Sandoval, Sierra, Valencia, and Socorro Counties (6):			
Including no more than:			
Canada	Dec. 19-Dec. 27.	1	1
White-fronted		1	1
Canada and white-fronted geese combined		1	1
Snow (including blue) and Ross'	Nov. 14-Feb. 14.	5	10
Remainder of State in Central Flyway:			
Including no more than:			
Canada	Nov. 14-Jan. 17.	2	4
White-fronted		2	4
Canada and white-fronted geese combined		2	4
Snow (including blue) and Ross'	Nov. 14-Feb. 14.	5	10
North Dakota			
Ducks (7), (8):	Oct. 3-Nov. 29 & Dec. 5-Dec. 6.	5	10
Including no more than:			
Female mallards		1	2
Canvasbacks (except in closed area)		1	1
Redheads		1	2
Wood ducks		2	4
Hooded mergansers		1	2
Coots		15	30
Geese:			
Dark geese (9)	Oct. 3-Nov. 1.		
Including no more than:			
Canada		1	2
White-fronted		2	4
Canada and white-fronted combined		2	4
Dark geese	Nov. 2-Nov. 15.		
Including no more than:			
Canada		2	4
White-fronted		2	4
Canada and white-fronted combined		2	4
Light geese (including snow, blue, and Ross')	Oct. 3-Dec. 6.	5	10
Oklahoma			
Ducks:		Point system.	
High Plains Area	Oct. 17-Jan. 7.		
Remainder of State	Oct. 31-Nov. 29 & Dec. 12-Jan. 10.		
Coots		15	30
Geese:		5	10
Unit 1 (10)	Nov. 7-Jan. 17.		
Unit 2 (10)	Oct. 10-Nov. 29 & Dec. 12-Jan. 1.		
Dark geese:			
Including no more than:			
Canada		2	4
Canada and white-fronted		2	4
Light geese: (including snow, blue, and Ross')		5	10
South Dakota			
Ducks (7):		Point system.	
High Plains Area	Oct. 3-Dec. 1 & Dec. 19-Jan. 10.		
Low Plains Area			
North Zone (3)	Oct. 3-Dec. 1.		
South Zone (3)	Oct. 24-Dec. 22.		
Coots		15	30
Geese:			
Dark			
Missouri River Unit	Oct. 3-Nov. 13.		
Including no more than:			
Canada		1	2
White-fronted		1	2
	November 14-Dec. 20.		
Canada		2	4
White-fronted		1	2
Canada and white-fronted		2	4
Remainder of State	Oct. 3-Dec. 13.		
Including no more than:			
Canada		1	2
White-fronted		1	2
Light geese (including snow, blue, and Ross')	Oct. 3-Dec. 27.	5	10
Texas			
Ducks (except black-bellied and fulvous whistling (tree) ducks, and masked duck):		Point system.	
High Plains Area	Oct. 27-Jan. 17.		
Remainder of State	Nov. 7-Nov. 29 & Dec. 12-Jan. 17.		
Black-bellied and fulvous whistling (tree) ducks, and masked duck	Closed season.	-	-
Coots		15	30
Geese:			
East of U.S. Highway 81:			
Dark geese	Nov. 7-Jan. 17.	2	4
Including no more than:			
Canada		1	2
White-fronted		1	2
Light geese	Nov. 7-Jan. 17.		
Snow (including blue) and Ross'		5	10

	Season Dates	Limits Bag	Limits Possession
West of U.S. Highway 81:			
Geese:	Oct. 27-Jan. 17.	5	10
including no more than:			
Dark geese		2	4
Canada		2	4
White-fronted		2	4
Light geese (including blue and Ross')		5	10
Wyoming			
Ducks and coots		Point system (11).	
Zone 1 (3)	Oct. 3-Nov. 29 & Dec. 17-Jan. 10.		
Zone 2 (3)	Oct. 3-Oct. 25 & Nov. 7-Jan. 5.		
Zone 3 (3)	Oct. 3-Dec. 1 & Dec. 12-Jan. 3.		
Zone 4 (3)	Oct. 3-Oct. 25 & Nov. 7-Jan. 5.		
Geese:		2	4
Zone 1 (3)	Oct. 31-Jan. 10.		
Zone 2 (3)	Nov. 14-Jan. 17.		
Zone 3 (3)	Oct. 3-Jan. 3.		
Zone 4 (3)	Oct. 10-Jan. 10.		

(1) Colorado Goose Hunting Units: North Central Unit: That portion of Colorado bounded on the north by the State line; on the east by U.S. Highway 85 to Interstate 76, Interstate 76 to Interstate 25, and Interstate 25 to Interstate 70; on the south by Interstate 70; and on the west by the Continental Divide. South Park Unit: Chaffee, Fremont, Lake, Park, and Teller Counties. San Luis Valley Unit: Alamosa, Conejos, Costilla, and Rio Grande Counties and those portions of Hinsdale, Mineral, and Sanguache Counties east of the Continental Divide. Arkansas Valley Unit: Bent, Cheyenne, Crowley, Kiowa, Otero, and Pueblo Counties, that portion of Prowers County north of U.S. Highway 50, and that portion of Kit Carson County south of U.S. Highway 24.

(2) Special hunting hours: Nov. 7-Nov. 30, 1/2 hour before sunrise to noon; Dec. 1, 1981-Jan. 17, 1982, 1/2 hour before sunrise to sunset.

(3) The Low Plains Duck Season Zones are described as follows:

Kansas — Zone 1: That portion of south-central Kansas bounded by the State line and the following highways: on the west by U.S. 283; on the north by K-4, U.S. 81, U.S. 56, K-150, and U.S. 50; and on the east by K-99. Zone 2: The remaining area within the Low Plains of Kansas.

Nebraska — Zone 1: Keya Paha County east of U.S. Highway 183 and all of Boyd, Knox, Cedar, and Dixon Counties, including the adjacent waters of the Niobrara River. Zone 2: The Low Plains portions of Dawson, Gosper, Frontier, and Furnas Counties and all of Buffalo, Phelps, Harlan, Hall, Kearney, Franklin, Merrick, Hamilton, Platte, Polk, Colfax, Butler, Dodge, Saunders, and Douglas Counties, including the adjacent waters of the Platte River. Zone 3: The Low Plains portions of Brown, Blaine, and Custer Counties and all of Rock, Holt, Loup, Garfield, Wheeler, Valley, Greeley, Sherman, Howard, Antelope, Boone, Nance, Pierce, Madison, Wayne, Stanton, Cuming, Dakota, Thurston, Burt, and Washington Counties. Zone 4: Adams, Webster, Clay, Nuckolls, York, Fillmore, Thayer, Seward, Saline, Jefferson, Lancaster, Gage, Sarpy, Cass, Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties.

South Dakota — South Zone: Bon Homme, Charles Mix, Clay, Gregory, Union, and Yankton Counties. North Zone: The remainder of the Low Plains portion of South Dakota.

Wyoming — Zone 1: Sheridan, Johnson, Natrona, Campbell, Crook, Weston, Converse, and Niobrara Counties. Zone 2: Platte, Goshen, and Laramie Counties. Zone 3: Carbon and Albany Counties. Zone 4: Park, Big Horn, Hot Springs, Washakie, and Fremont Counties. These zones also apply to goose seasons.

(4) In Kansas, shooting hours are 1/2 hour before sunrise to sunset except in the northeast Kansas counties of Atchison, Brown, Doniphan, Douglas, Jefferson, and Leavenworth where the goose shooting hours are 1/2 hour before sunrise till 1 p.m.

(5) Nebraska Goose Management Units. Unit 1 is comprised of Boyd, Cedar (west of U.S. Highway 81), Keya Paha (east of U.S. Highway 183), and Knox Counties. Unit 2 is the remainder of U.S. Highway 183.

(6) See State regulations and other Federal regulations for special restrictions on Bosque del Apache National Wildlife Refuge, for geese.

(7) The areas closed to canvasback hunting are:

North Dakota — That portion lying east of State Highway 3, including all or portions of 27 counties.

South Dakota — All of Marshall County; that portion of Day County east of State Highway 25; that portion of Codington County south of State Highway 20 and west of U.S. Highway 81; that portion of Hamlin County west of U.S. Highway 81; and that portion of Kingsbury County east of State Highway 25 and north of U.S. Highway 14.

(8) During October 3 through October 11, 2 and 4 additional teal may be included in the daily bag and possession limits, respectively.

(9) The Dark Goose season opening is delayed until October 5 in the following area: Starting at South Dakota border where U.S. Highway 281 enters North Dakota, north and west on U.S. Highway 281 to Carrington, then west and north on U.S. Highway 52 to junction of U.S. Highway 52 with Drake-McClusky-Farm-to-Market Road (Camp Bentley Road) approximately 2-1/2 miles west of Drake, then south on the Farm-to-Market Road to N.D. 200 at McClusky, then west and south on N.D. 200 and Alternate N.D. 200 to Washburn, then west and north on Alternate N.D. 200 and N.D. 200 to the Montana border, then south on Montana-North Dakota border to the South Dakota border and then east on North Dakota-South Dakota border to point of origin.

(10) Oklahoma Goose Management Units. Unit 1 is that portion of Oklahoma west of U.S. Highways 77 and 177, the Indian Nation Turnpike, and U.S. Highway 271. Unit 2 is the remainder of Oklahoma.

(11) In Wyoming, coots are assigned 10 points.

PACIFIC FLYWAY

The Pacific Flyway consists of Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; New Mexico west of the Continental Divide plus the Jicarilla Apache Indian Reservation; and in Montana, the Counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof.

Flywaywide Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily.

Aleutian Canada Geese: The season is closed on Aleutian Canada geese throughout the Flyway.

Canvasbacks and Redheads: No more than 2 canvasbacks or 2 redheads or 1 of each may be taken daily nor more than 4 singly or in the aggregate may be possessed.

Mergansers: All mergansers are to be included within the daily bag and possession limits for other ducks.

Coots and Gallinules: The daily bag and possession limits on coots and gallinules are 25 either singly or in the aggregate.

Common Snipe: The daily bag and possession limits on common snipe are 8 and 15, respectively.

Concurrent Seasons: Unless otherwise noted, seasons on coots, gallinules, and snipe are the same as for ducks.

Dark Geese and White Geese: Unless otherwise noted, limits for dark geese are for Canada and white-fronted geese, either singly or in the aggregate; and limits for white geese are for lesser snow, including blue, and Ross' geese, either singly or in the aggregate.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATION OF GEOGRAPHICAL AREAS OR ZONES WITHIN STATES. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS.

	Season Dates	Limits Bag	Limits Possession
Arizona (1)			
Ducks	Oct. 9-Nov. 4 & Nov. 13-Jan. 17.	7	14
Geese:	Nov. 13-Jan. 17.	6	6
Including no more than:			
Dark (no more than 2 Canada geese)		3	3
White		3	3
Coots and gallinules (singly or in the aggregate)	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
Sandhill cranes (only in Game Management Units 30A, 30B, 31, and 32)	Nov. 14, 15, 21 & 22.	Only by permit; 2 cranes per season.	
California			
Ducks:			
Colorado River Zone	Oct. 9-Nov. 4 & Nov. 13-Jan. 17.	7	14
Remainder of State	Oct. 17-Jan. 17.	7	14
Geese:			
Northeastern Zone:			
1st Period	Oct. 17-Oct. 30.	1	2
2nd Period	Oct. 31-Jan. 17.	4	4
Including no more than:			
Dark		2	2
White		3	3
Colorado River Zone:	Nov. 13-Jan. 17.	6	6
Including no more than:			
Dark (but no more than 2 Canada geese)		3	3
White		3	3
Southern Zone:	Oct. 17-Jan. 17.	6	6
Including no more than:			
Dark (except the open season on Canada geese shall be from Oct. 24, 1981, through Jan. 17,			

	Season Dates	Limits Bag	Limits Possession
1982, and Canada geese not exceed 2 in the daily bag and possession limits; but in that portion of District 22 within the Southern Zone, Canada geese may not exceed 1 in daily bag and 2 in possession)		3	3
White		3	3
Balance-of-State Zone:	Oct. 31-Jan. 17.	5	5
Including no more than:			
Dark, except that the season on Canada geese:		2	2
Counties of Del Norte and Humboldt	Closed.		
Sacramento Valley Area (2)	Dec. 15-Jan. 17.		
San Joaquin Valley Area (3)	Oct. 31-Nov. 22.		
Remainder of zone	Oct. 31-Jan. 17.		
White		3	3
Brant	Jan. 16-Feb. 21.	4	8
Coots and gallinules, singly or in the aggregate.	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
Colorado			
Ducks (4)	Oct. 3-Oct. 23 & Nov. 7-Jan. 17.	7	14
Geese (4):			
Brown's Park, Moffat County	Nov. 7-Dec. 13.	1	2
Delta and Montrose Counties	Nov. 7-Dec. 31.	Only by permit; 2 geese per season.	
Garfield and Mesa Counties	Nov. 21-Dec. 31.	Only by permit; 4 geese per season.	
Delores, Gunnison, and Montezuma Counties	Closed.	-	-
Remainder of State in Pacific Flyway	Oct. 10-Dec. 31.	2	4
Coots (4)	Same as for ducks.	25	25
Common snipe	Sept. 1-Dec. 2.	8	16
Sora and Virginia rails	Sept. 1-Nov. 9.	25	25
Idaho (5)			
Ducks:			
Counties of Adams, Bear Lake, Boise, Bonneville, Butte, Caribou, Clark, Clearwater, Custer, Franklin, Fremont, Idaho, Jefferson, Lemhi, Madison, Oneida, Teton, Valley, and that portion of Blackfoot Reservoir drainage lying within Bingham County	Oct. 3-Jan. 3.	7	14
Remainder of State (6)	Oct. 3-Jan. 10.	7	14
Geese:			
Northern 10 counties (Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone)	Oct. 3-Jan. 3.	3	6
Fremont County within the North Fork of the Snake River drainage above the new Wendell Bridge near Ashton (7)	Oct. 10-Nov. 22.	2	2
Remainder of Fremont County, Clark, Madison, and Teton Counties			
Including no more than:			
Dark	Oct. 10-Dec. 31.	2	2
White	Closed.	-	-
Blaine County lying south and east of U.S. Highway 93, and the counties of Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls	Oct. 24-Dec. 31.	2	2
Remainder of State (7)	Oct. 10-Dec. 31.	2	2
Coots	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
Montana			
Ducks	Oct. 3-Jan. 3.	7	14
Geese (8):			
East of the Continental Divide (8)	Oct. 3-Dec. 31.	6	6
Including no more than:			
Dark		3	6
White		3	6
West of the Continental Divide (8)	Oct. 3-Dec. 31.	5	6
Including no more than:			
Dark		2	2
White		3	6
Coots	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
Whistling swans, only in Teton and Cascade Counties	Oct. 3-Jan. 3.	Only by permit; 1 swan per season.	
Nevada			
Ducks:			
Clark County	Oct. 17-Jan. 17.	7	14
Remainder of State	Oct. 10-Jan. 10.	7	14
Dark geese:			
Clark County	Nov. 28-Jan. 17.	2	2
Elko County and Ruby Lake National Wildlife Refuge in White Pine County	Oct. 10-Jan. 10.	2	2
White River Valley in Nye County	Dec. 23-Jan. 10.	1	1
Pahranagat Valley in Lincoln County	Dec. 23-Jan. 10.	Only by permit; 1 goose per season.	
Remainder of State	Nov. 14-Jan. 17.	2	2
White geese:			
Clark County	Nov. 28-Jan. 17.	3	3
Elko County except Ruby Valley	Oct. 10-Jan. 10.	3	3
Ruby Valley in Elko and White Pine Counties	Closed.	-	-
White River Valley in Nye County	Dec. 23-Jan. 10.	3	3
Pahranagat Valley in Lincoln County	Dec. 23-Jan. 10.	3	3
Remainder of State	Oct. 24-Jan. 17.	3	3
Coots and gallinules, singly or in the aggregate	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
Whistling swans, only in Churchill County	Nov. 7-Jan. 10.	Only by permit; 1 swan per season.	
New Mexico			
Ducks	Oct. 3-Jan. 3.	7	14
Geese:			
North of I-40/U.S. 66	Closed.	-	-
South of I-40/U.S. 66	Oct. 3-Dec. 27.	6	6
Including no more than:			
Dark (no more than 2 Canada geese)		3	3
White		3	3
Coots and gallinules (singly or in the aggregate)	Same as for ducks.	25	25
Common snipe	Sept. 12-Dec. 13.	8	16
Virginia and sora rails (singly or in the aggregate)	Sept. 12-Nov. 30.	25	25
Oregon			
Ducks	Oct. 17-Jan. 17.	7	14
Geese:			
Western Oregon (9)	Oct. 17-Jan. 17.	2	2
Eastern Oregon, except Baker Malheur, Klamath, and Lake Counties	Oct. 17-Jan. 17	6	6
Including no more than:			
Dark		3	6
White		3	6
Baker and Malheur Counties	Oct. 17-Dec. 31.	2	2
Klamath and Lake Counties			
Geese (no more than 1 dark goose in the daily bag or 2 dark geese in possession).	Oct. 17-Oct. 30.	2	4
Geese:	Oct. 31-Jan. 17.	6	6
Including no more than:			
Dark		3	6
White		3	6
Brant	Dec. 16-Feb. 1.	4	8
Coots	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
Utah			
Ducks (10)	Oct. 3-Jan. 3.	7	14
Geese:			
General Season (11):	Oct. 10-Dec. 31.	5	6
Including no more than:			
Canada geese		2	4
White geese		3	6

	Season Dates	Limits Bag	Limits Possession
Special Seasons:			
Daggett County	Oct. 31-Dec. 13.		
Including no more than:			
Canada geese		1	2
Washington County	Oct. 24-Jan. 17.		
Including no more than:			
Canada geese		2	2
Coots (10)	Same as for ducks.	25	25
Common snipe (10)	Same as for ducks.	8	16
Whistling swans (10)	Oct. 3-Jan. 3.	Only by permit; 1 swan per season.	
Washington			
Ducks (12):			
Eastern Washington	Oct. 10-Jan. 17.	7	14
Western Washington	Oct. 10-Jan. 10.	7	14
Geese (12), (13):			
Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima Counties	Oct. 10-Jan. 17	3	6
Island, Skagit, and Snohomish Counties	Oct. 10-Jan. 3.	3	6
Whatcom County	Closed.	-	-
Remainder of State	Oct. 10-Jan. 10.	3	6
Brant (14):			
Western Washington except Whatcom County	Dec. 16-Jan. 20.	3	6
Whatcom County and Eastern Washington	Closed.	-	-
Coots (12)	Same as for ducks.	25	25
Common snipe (12)	Same as for ducks.	8	16
Wyoming			
Ducks and coots, singly or in the aggregate	Oct. 3-Jan. 3.	7	14
Geese:			
In all of the drainage of the Green River in Carbon, Lincoln, Sublette, Sweetwater, Teton, and Uinta Counties	Oct. 3-Dec. 6.	2	2
Those portions of the above-named counties not in the drainage of the Green River	Oct. 3-Dec. 31.	3	3
Common snipe	Sept. 26-Dec. 27.	8	16
Sora and Virginia rails, singly or in the aggregate	Sept. 26-Dec. 4.	25	25

(1) The Imperial, Cibola, and Havasu National Wildlife Refuges, Arizona, are open to waterfowl hunting except for posted portions. Ashurst Lake in Game Management Unit 5B is closed to all waterfowl and snipe hunting. Unit 1, Unit 27, that portion of Unit 25B lying east of Highway 273 and all of Units 3A and 3B lying east of Highways 77 and 260 are closed to the taking of Canada geese and its subspecies.

(2) The Sacramento Valley Area is bounded by a line beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River, then southerly on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45-162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows.

(3) The San Joaquin Valley Area is bounded by a line beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate 5; then southerly on Interstate 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly to the point of beginning in Modesto.

(4) Hunting of ducks, coots, and geese is prohibited on and adjacent to portions of the Colorado River, Mesa County, during Nov. 9-13, Nov. 23-27, Dec. 7-11, Dec. 21-25, Jan. 4-8; in Highline State Recreation Area, Mack Mesa Reservoir, and Walker State Wildlife Area in Mesa County; a portion on and adjacent to the Yampa River in Moffat County; and Sweitzer Lake in Delta County. Hunting of ducks and coots is prohibited on Steamboat Lake State Recreation Area in Routt County. Hunting of geese is prohibited on and adjacent to portions of the Colorado River in Eagle and Grand Counties; and portions of Eagle River in Eagle County. See State regulations for descriptions of these closed areas.

(5) Waterfowl may not be taken in the Kootenai County Waterfowl Closure-Thompson Lake, Hells Canyon Waterfowl Closure, Mormon Reservoir Waterfowl Closure, Black Canyon Reservoir-Payette River Waterfowl Closure, Indian Creek Waterfowl Closure, Blacks Creek Waterfowl Closure, Hubbard Reservoir Waterfowl Closure, and Hagerman Wildlife Management Area. Geese may not be hunted in the Canyon County Goose Closure, Minidoka-Cassia Goose Closure, or Hagerman Valley Goose Closure. See State regulations for descriptions of these areas.

(6) In Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties, no more than 1 wood duck may be taken daily nor more than 1 may be possessed.

(7) The season on white geese is closed in that portion of Jefferson County lying north of State Highway 33 and east of Interstate Highway 15, and in all of Clark, Fremont, Madison, and Teton Counties.

(8) Exceptions to the general season on geese are the following goose management areas (see State regulations for descriptions of areas): Goose season in portions of Broadwater, Lewis and Clark, and Jefferson Counties is October 17 through December 31; goose season in portions of Flathead, Lake, and Sanders Counties is October 3 through November 29; goose season in Deer Lodge County is October 17 through December 31; the season on dark geese in portions of Cascade, Choteau, and Teton Counties is October 31 through December 31.

(9) Western Oregon consists of all counties west of the summit of the Cascades excluding Klamath and Hood River Counties.

(10) Shooting hours are from 12 noon through sunset on the first day of the season.

(11) Goose hunting is prohibited within the boundaries of the Desert Lake Waterfowl Management Area in Emery County, Fish Springs National Wildlife Refuge in Juab County, and Ouray National Wildlife Refuge in Uintah County.

(12) In Western Washington the shooting hours are from 8 a.m. through sunset on the opening day, and in Eastern Washington the shooting hours are from 12 noon through sunset the opening day.

(13) Geese may be hunted only on Saturdays, Sundays, and Wednesdays, and on November 11, 26, and 27, and December 25, and January 1, 1982, in Okanogan and Spokane Counties. Geese may be hunted only on Saturdays, Sundays, and Wednesdays, and on November 11, 26, and 27, and December 25, 1981, and January 1 and 11 through 17, 1982, in Adams, Benton, Douglas, Franklin, Grant, Lincoln, and Walla Walla Counties and east of Satus Pass (U.S. Highway 97) in Klickitat County.

(14) Brant may be hunted only on Saturdays, Sundays, and Wednesdays, and on December 25, 1981, and January 1, 1982. It shall be unlawful to hunt brant from a moving boat or any free-floating device that is not in a fixed position.

(e) Point system — Ducks, mergansers, and coots. The States selecting the point system bag limits on designated species are listed in the table under §20.105(d).

(1) The point values assigned to the species and sexes are as follows:

Atlantic Flyway

100 points	70 points	10 points	25 points
Canvasback (except where closed)	Female mallard	Pintail	Male mallard and all other species of ducks.
Florida only: Fulvous tree duck.	Black duck	Blue-winged teal	
	Mottled duck	Green-winged teal (2)	
	Wood duck (1)	Shoveler	
	Redhead	Gadwall	
	Hooded merganser.	Wigeon	
		Scaup	
		Sea ducks (3)	
		Mergansers (except hooded).	

(1) In Virginia during October 7 through October 10, the wood duck counts 25 points.

(2) In New Jersey the point value for green-winged teal is 25 by State regulation.

(3) Sea ducks count 10 points each during the point-system season, but during any part of the regular sea duck season falling outside the point-system season, sea duck daily bag and possession limits of 7 and 14, respectively, apply.

Mississippi Flyway (1)

100 points	70 points	10 points	25 points
Canvasback (except where closed)	Female mallard Black duck Wood duck Redhead Hooded merganser.	Pintail Blue-winged teal Green-winged teal Cinnamon teal Wigeon Shoveler Gadwall Scaup (except Michigan) Mergansers (except hooded).	Male mallard and all other species of ducks. Scaup (Michigan only)

(1) In Wisconsin, point values for some species change during the season. See State regulations.

Central Flyway

100 points	70 points	10 points	20 points
Canvasback (except where closed).	Female mallard Mexican-like duck Wood duck Redhead Hooded merganser. Mottled duck and black duck (Texas only)	Pintail Blue-winged teal Green-winged teal Cinnamon teal Shoveler Gadwall Wigeon Scaup Merganser (except hooded.	Male mallard and all other species of ducks.

(1) In Wyoming the coot is assigned 10 points.

Coots have no point value (except in Wyoming) but conventional bag limits of 15 daily and 30 in possession apply.

Pacific Flyway: There is no point system in the Pacific Flyway.

(2) The daily bag limit is reached when the point value of the last bird taken added to the sum of the point values of the other birds already taken during that day reaches or exceeds 100 points. The possession limit is the maximum number of birds of species and sex which could have legally been taken in 2 days. The shooting (including hawking) hours are one-half hour before sunrise until sunset daily unless otherwise indicated.

(f) Scaup only season. A special hunting season for scaup only is prescribed according to the following table in those areas which are described, delineated, and designated in the hunting regulations of the respective States.

Daily bag limit..... 5
Possession limit..... 10
Shooting (including hawking) hours: One-half hour before sunrise to sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES.

Seasons in the Atlantic Flyway

Connecticut	Jan. 15-Jan. 30.
Florida	Jan. 19-Jan. 31.
Maryland (in sea duck zone)	Nov. 28-Dec. 8.
Massachusetts	Jan. 8-Jan. 23.
New Jersey	Jan. 8-Jan. 23.
New York:	
Long Island Zone only	Jan. 16-Jan. 31.
Rhode Island	Jan. 16-Jan. 31.
Virginia	Jan. 21-Jan. 31.

Seasons in the Mississippi Flyway

Indiana (Lake Michigan only)	Dec. 13-Dec. 28.
Louisiana	Jan. 21-Jan. 31.
Ohio (North Zone only)	Dec. 1-Dec. 16.
Wisconsin	Nov. 28-Dec. 13.

(g) Extra teal during regular season. Hunting seasons for blue-winged and green-winged teal ducks in the Atlantic Flyway, and blue-winged only in the Central Flyway, are prescribed according to the following table. The daily bag and possession limits specified here are in addition to any other bag and possession limits specified elsewhere.

Daily bag limit..... 2
Possession limit..... 4

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES.

Seasons in the Atlantic Flyway

Connecticut	Oct. 13-Oct. 21.
Delaware	Oct. 1-Oct. 3 & Nov. 2-Nov. 7.
Georgia	Oct. 10-Oct. 14.
Maine	Oct. 1-Oct. 9.
Massachusetts:	
Inland Zone	Oct. 14-Oct. 22.
Coastal Zone	Oct. 22-Oct. 30.
New Hampshire	Oct. 7-Oct. 15.
New York:	
North Zone	Oct. 7-Oct. 15.
South Zone	Oct. 14-Oct. 22.
West Zone	Oct. 14-Oct. 22.
Lake Champlain	Oct. 10 (1)-Oct. 18.
Long Island	Nov. 18-Nov. 26.
North Carolina	Oct. 1-Oct. 3 & Nov. 26-Nov. 28 & Dec. 8-Dec. 10.
Pennsylvania:	
North Zone	Oct. 3 (1)-Oct. 10.
South Zone	Oct. 17 (1)-Oct. 24.
Northwest Zone	Oct. 10 (1)-Oct. 17.
Lake Erie Zone	Oct. 24-Oct. 31.
Rhode Island	Oct. 8-Oct. 12.
South Carolina	Jan. 12-Jan. 20.
Vermont	Oct. 10 (1)-Oct. 18.
West Virginia	Oct. 1-Oct. 9.

Seasons in the Mississippi Flyway
None.

Seasons in the Central Flyway

North Dakota	Oct. 3-Oct. 11.

Seasons in the Pacific Flyway
None.

(1) Shooting hours on first day begin at 8 a.m.

(h) Extra scaup during regular season. The following States may take an extra bag limit on scaup of two daily and four in possession during the regular duck hunting season. The daily bag and possession limits specified here are in addition to any other bag and possession limits specified elsewhere.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES.

Seasons in the Atlantic Flyway

Delaware	Oct. 1-Oct. 3 & Nov. 2-Nov. 28 & Dec. 21-Jan. 9.
Georgia	Oct. 10-Oct. 14 & Nov. 25-Nov. 29 & Dec. 12-Jan. 28.
Maine:	
South Zone only	Oct. 1-Oct. 17 & Nov. 17-Dec. 19.
New Hampshire:	
Inland Zone	Oct. 7-Nov. 25.
Coastal Zone	Oct. 7-Oct. 18 & Nov. 7-Dec. 14.
New York:	
North Zone	Oct. 7-Nov. 1 & Nov. 13-Dec. 6.
South Zone	Oct. 14-Oct. 25 & Nov. 6-Dec. 13.
West Zone	Oct. 14-Nov. 19 & Dec. 23-Jan. 4.
North Carolina (1)	Oct. 1-Oct. 3 & Nov. 26-Nov. 28 & Dec. 8-Jan. 20.
Pennsylvania (on waters of Lake Erie & Presque Isle Bay only)	Oct. 24-Dec. 12.
South Carolina (2)	Oct. 8-Oct. 10 & Nov. 25-Nov. 23 & Dec. 9-Jan. 20.
West Virginia:	
Allegheny Mountain Upland Zone (Zone 2)	Oct. 1-Oct. 17 & Nov. 3-Dec. 5.
Remainder of State (Zone 1)	Oct. 1-Oct. 17 & Dec. 15-Jan. 16.

(1) Only in waters east of U.S. Highway 17, except Currituck Sound north of U.S. Highway 158.

(2) Only in waters east of U.S. Highway 17, north of Charleston, and east of the Seaboard Railroad bed south of Charleston.

(i) Special scaup and goldeneye. A special hunting season for scaup and goldeneye is prescribed according to the following table in the Lake Champlain areas which are described, delineated, and designated in the hunting regulations of the respective States. The daily bag limit is 3 scaup or 3 goldeneyes or 3 in the aggregate. The possession limit is 6 scaup or 6 goldeneyes or 6 in the aggregate.

Shooting hours (including hawking) hours: One-half hour before sunrise to sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES.

Seasons in the Lake Champlain Area Only

New York	Nov. 29-Dec. 14.
Vermont	Nov. 29-Dec. 14.

Section 20.106 is amended by revising the introductory paragraph, and (a) through (g) to read as follows:

§20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking sandhill cranes. Central Flyway: A daily bag limit of three and a possession limit of six, and with shooting (including hawking) hours from one-half hour before sunrise until sunset, in the following areas for the dates indicated:

(a) In the Central Flyway portion of Colorado except the San Luis Valley area, season dates are October 10 through November 15, 1981.

(b) In the New Mexico counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, and in that portion of Texas west of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, along U.S. Highway 87 (and including all of Howard and Lynn Counties) to U.S. Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio, season dates in the New Mexico portion are October 31, 1981, through January 31, 1982, and in the Texas portion, October 31, 1981, through January 31, 1982.

(c) In that portion of Oklahoma lying west of U.S. Highway 81, and in that portion of Texas east of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, then along U.S. Highway 87 to San Angelo, and west of a line running north from San Angelo along U.S. Highway 277 to Abilene, along State Highway 351 to Albany, along U.S. Highway 283 to Vernon, and then along U.S. Highway 183 east to the Oklahoma border, season dates in the Oklahoma portion are November 22, 1981, through January 18, 1982, and in the Texas portion, December 5, 1981, through January 31, 1982.

(d) In North Dakota, in Benson, Burleigh, Emmons, Kidder, McHenry, Pierce, and Stutsman Counties, the inclusive season dates are September 5 through September 13 and in McLean and Sheridan Counties, the inclusive season dates are September 5 through September 20, 1981. In South Dakota, in Campbell, Walworth, Potter, Dewey, and Corson Counties, the inclusive season dates are September 20 through September 28, 1981.

(e) In all of the Central Flyway portion of Montana except Sheridan County and that area south and west of Interstate Highway 90 and the Big Horn River, the season dates are October 3 through November 8, 1981.

(f) In Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties, Wyoming, the season dates are October 3 through November 8, 1981.

(g) Each hunter participating in the sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to an authorized law enforcement official upon request.

Pacific Flyway: An open season on sandhill cranes is prescribed for Arizona within Game Management Units 30A, 30B, 31, and 32 for November 14, 15, 21, and 22, 1981. Hunting is by special permit to be issued by the State. Each permittee may take 2 sandhill cranes per season.

Section 20.107 is revised as follows.

§20.107 Seasons, limits, and shooting hours for whistling swans.

Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking a limited number of whistling swans in the States of Montana, Nevada, and Utah, subject to the following conditions:

(a) The season must run concurrently with the season for ducks.

(b) In Montana, no more than 500 permits may be issued authorizing each permittee to take one whistling swan in either Teton or Cascade County. The season dates are October 3, 1981, through January 3, 1982.

(c) In Nevada, no more than 500 permits may be issued authorizing each permittee to take one whistling swan in Churchill County. The season dates are November 7, 1981, through January 10, 1982.

(d) In Utah, no more than 2,500 permits may be issued authorizing each permittee to take one whistling swan. The season dates are October 3, 1981, through January 3, 1982.

(e) Permits and correspondingly numbered metal locking seals must be issued by the appropriate State conservation agency on an equitable basis without charge.

* * * * *

Section 20.109 is revised as follows:

§20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Daily bag limit..... 3 singly or in the aggregate.
Possession limit..... 6 singly or in the aggregate.
These limits apply during both regular hunting seasons and extended falconry seasons.
Hawking hours: One-half hour before sunrise until sunset daily.
CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Atlantic Flyway	
Florida:	
Mourning doves	Oct. 3-Jan. 17.
Rails and gallinules	Sept. 2-Dec. 17.
Woodcock	Oct. 31-Feb. 14.
Snipe	Nov. 7-Feb. 21.
Ducks, mergansers, and coots	Oct. 17-Dec. 6 & Dec. 12-Jan. 17.
Maryland:	
Mourning doves	Sept. 1-Oct. 10 & Nov. 11-Jan. 15.
Rails and gallinules	Sept. 1-Dec. 16.
Woodcock	Oct. 12-Nov. 27 & Dec. 3-Jan. 31.
Snipe	Sept. 14-Dec. 29.
Ducks, coots, and mergansers	Oct. 6-Jan. 20.
Canada geese:	
Eastern Shore	Oct. 16-Jan. 30.
Remainder of State	Oct. 6-Jan. 20.
Snow geese	Oct. 16-Jan. 30.
Brant	Oct. 6-Jan. 20.
Massachusetts	
Ducks (except sea ducks), mergansers, and coots	Oct. 12-Jan. 20.
Pennsylvania:	
Mourning doves	Sept. 1-Dec. 12.
Woodcock and snipe	Oct. 5-Jan. 9.
Ducks, mergansers, and coots	Oct. 5-Jan. 9.
Virginia:	
Mourning doves, rails, and woodcock	Sept. 21-Dec. 7 & Dec. 19-Jan. 31.
Snipe	Oct. 17-Jan. 31.
Ducks (except scaup), mergansers, coots, and brant	Oct. 6-Jan. 20.
Canada geese, snow geese, and scaup	Nov. 2-Jan. 30.
Mississippi Flyway	
Illinois:	
Mourning doves, rails, and woodcock	Sept. 1-Dec. 16.
Snipe	Sept. 12-Dec. 27.
Teal	Sept. 12-Sept. 20.
Ducks, mergansers, and coots	Oct. 1-Jan. 6.
Indiana	
Woodcock	Sept. 1-Sept. 18.
Ducks, mergansers, and coots:	
North Zone	Oct. 3-Oct. 23.
South Zone	Oct. 3-Nov. 13.
Kentucky	
Waterfowl	Nov. 1-Jan. 20.
Michigan:	
Rails, woodcock, and snipe	Sept. 1-Dec. 16.
Ducks, mergansers, coots, gallinules, and geese	Oct. 3-Jan. 17.
Minnesota:	
Woodcock, rails, and snipe	Sept. 1-Dec. 16.
Ducks, mergansers, and coots	Oct. 3-Jan. 17.
Mississippi:	
Mourning doves	Oct. 5-Oct. 16 & Nov. 14-Dec. 8.
Ducks, mergansers, and coots	Dec. 5-Dec. 11.
Missouri:	
Mourning doves	Sept. 1-Dec. 16.
Ducks, mergansers, and coots	Oct. 17-Oct. 21 & Oct. 31-Jan. 20.
Central Flyway	
Colorado	
Ducks, mergansers, coots, and geese (3 in the daily bag and in possession)	Oct. 19-Oct. 30.
Montana (1)	
Ducks, geese, mergansers, coots, snipe, and cranes	Oct. 3-Jan. 17.

New Mexico:	
Daily bag and possession limits in New Mexico are 2 and 4, respectively, singly or in the aggregate of migratory species named below and resident game species.	
Mourning doves, white-winged doves, and band-tailed pigeons	Sept. 1-Nov. 16 & Nov. 21-Dec. 20.
Sandhill cranes only in Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties	Oct. 17-Jan. 17.
Ducks, mergansers, coots, and gallinules	Oct. 17-Jan. 17.
Geese	Oct. 31-Jan. 17.
Oklahoma	
Ducks, mergansers, coots, and geese	Oct. 10-Jan. 15.
Texas:	
Mourning doves, white-winged doves, rails, and gallinules	Sept. 1-Dec. 16.
Woodcock and snipe	Nov. 1-Feb. 15.
Ducks, mergansers, and coots	Oct. 3-Jan. 17.
Sandhill cranes:	
Zone A	Oct. 20-Jan. 31.
Zone B	Nov. 22-Jan. 31.
Wyoming (Statewide): (1)	
Mourning doves	Sept. 1-Oct. 15.
Snipe	Sept. 26-Dec. 4.
Ducks, mergansers, geese, and coots	Oct. 3-Jan. 17.
Pacific Flyway	
Colorado	
Ducks, coots, and geese (3 in the daily bag and in possession)	Oct. 24-Nov. 6.
Idaho:	
Mourning doves only	Sept. 1-Oct. 20.
Ducks and geese	Oct. 3-Jan. 17.
Montana (1)	
Ducks, geese, coots, and snipe	Oct. 3-Jan. 17.
New Mexico (1)	
Mourning doves, white-winged doves, and band-tailed pigeons	Sept. 1-Nov. 16 & Nov. 21-Dec. 20.
Ducks, coots, and gallinules	Oct. 17-Jan. 17.
Geese	Oct. 31-Jan. 17.
Oregon	
Mourning doves	Sept. 1-Dec. 16.
Ducks, coots, snipe, and geese	Oct. 3-Jan. 17.
Utah	
Ducks, geese, coot, and snipe	Oct. 3-Jan. 17.
Washington	
Ducks, geese, and coots:	
Western Zone	Oct. 3-Oct. 9 & Jan. 11-Jan. 17.
Eastern Zone	Oct. 3-Oct. 9.
Wyoming (1)	
Morning doves	Sept. 1-Oct. 15.
Rails and snipe	Sept. 26-Dec. 4.
Ducks, geese, and coots	Oct. 3-Jan. 17.

(1) In Montana and New Mexico, the aggregate bag and possession limits of all species are 2 and 4, respectively. In Wyoming, the aggregate bag and possession limits of all species are 2 birds.

Note: See waterfowl season footnotes for descriptions of zones. For some States, the extended falconry season dates also include general season dates.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSIS**		DOT/FAA	USDA/FSIS**
DOT/FHWA	USDA/FSQS**		DOT/FHWA	USDA/FSQS**
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/MA*	MSPB/OPM		DOT/MA*	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

*Note: The Maritime Administration will begin Mon./Thurs. publication as of Oct. 1, 1981.
**Note: As of September 14, 1981, documents received from Food Safety and Inspection Service (formerly Food Safety and Quality Service) will no longer be assigned to the Tues./Fri. publication schedule.

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.

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