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federal register

Tuesday
October 26, 1982

Selected Subjects

Administrative Practice and Procedure
Interstate Commerce Commission
Patent and Trademark Office

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Antitrust
Comptroller of Currency
Federal Deposit Insurance Corporation
Federal Home Loan Bank Board
Federal Reserve System
National Credit Union Administration

Coal Mining
Surface Mining Reclamation and Enforcement Office

Commodity Futures
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Food and Drug Administration

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General Services Administration

Medicare
Health Care Financing Administration

Motor Vehicle Pollution
Environmental Protection Agency

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Nuclear Regulatory Commission

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Presidential Documents

Title 3—

The President

Proclamation 4990 of October 22, 1982

Head Start Awareness Month

By the President of the United States of America

A Proclamation

Since its establishment in 1965, the National Head Start Program has helped over eight million low-income pre-school children and their families. In so doing, it has earned recognition and support for its success in early childhood education and development.

Equally important, the health and nutrition aspects of the program have improved the prevention, detection, and treatment of children's medical, dental, and nutritional problems, thereby removing barriers to growth and learning.

Perhaps the most significant factor in the success of Head Start has been the involvement of parents, volunteers, and the community. Their commitment and the services provided by dedicated Head Start staff have been instrumental in creating a quality program that truly provides young children with a "head start" in life.

For these reasons, the Congress, by House Joint Resolution 588, has authorized and requested the President to proclaim the month of October 1982 as Head Start Awareness Month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the month of October as Head Start Awareness Month. I call on Head Start centers and other educational and community groups to call attention to Head Start activities with appropriate ceremonies and celebrations.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of October, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-29559
Filed 10-25-82; 10:38 am]
Billing code 3195-01-M

Rules and Regulations

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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

Agricultural Marketing Service

7 CFR Part 28

Cotton Testing and Standards, Revision of Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service is revising the schedule of fees for performing cotton fiber and processing tests and for cotton standards. This action is being taken in order to reflect increased costs of providing testing services and preparing standards.

EFFECTIVE DATE: October 26, 1982.

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, Washington, D.C. 20250, (202) 447-2167.

SUPPLEMENTARY INFORMATION: This final rule is issued in conformance with USDA procedures established under Executive Order 12291 and has been classified "nonmajor" since the increase in fees is minimal and this action does not meet the criteria for a "major" rule as listed in the Executive Order. William T. Manley, Deputy Administrator, Marketing Program Operations, has determined that this action will not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (4 U.S.C. 601) because the fees in this final rule are not new but merely reflect a minimal increase in the costs currently borne by those entities which elect to utilize certain cotton testing services.

Proposed rulemaking was published on pages 26637-26639 of the Federal Register of June 21, 1982 and comments were invited until September 1, 1982. No comments were received in response to the proposal which would revise the schedule of fees for performing cotton fiber and processing tests and for cotton standards. No changes have been made between this final rule and the proposed rule except for minor non-substantive format and typographical changes including a correction to the authority citation as proposed for Part 28, Subparts A and E.

This final rule becomes effective on October 26, 1982, less than 30 days after the publication date because current revenue does not cover the cost of providing the services at this time and it is desirable that the fee increases have an effective date as early as possible in October 1982, the first part of Fiscal Year 1983. Furthermore, the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471-476), the Cotton Service Testing Amendment (7 U.S.C. 473d), and the United States Cotton Standards Act (7 U.S.C. 55) together with the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), all as applicable, require the recovery of costs for services rendered. Accordingly, under the administrative provisions of 5 U.S.C. 553, good cause is found for making this action effective October 26, 1982.

During FY 1981, 21423 cotton fiber and processing tests have been performed for private sources. Since the last fee review, the operating costs involved in providing these tests have increased based on (1) labor costs, up 4.8 percent, (2) cost of supplies, up some 25 percent, (3) utility costs, up some 39 percent, and (4) changes in the mix of tests requested as a reflection of technological changes in the textile industry. The fees have been realigned so that the actual costs of providing each test will be accurately reflected by the fee charged for that test.

Since the last review of the fees charged for practical forms of Universal Cotton Standards the costs involved with the shipping of these standards to overseas clients have exceeded the shipping component of the fee charged. As a result, the fee charged for surface delivered standards needs to be increased. There is no need to increase "FOB Memphis" fees. A chemical finishing test is also added.

List of Subjects in 7 CFR Part 28

Cotton, Grades, Samples, Standards, Testing.

Accordingly, the cotton classing, testing, and standards regulations are amended as set forth below.

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

1. The authority citation for Part 28, Subparts A and E reads as follows:

Subpart A—Regulations Under the United States Cotton Standards Act

Authority: Sec. 10, 42 Stat. 1519; 7 U.S.C. 61, unless otherwise noted.

Subpart E—Cotton Fiber and Processing Tests

Authority: Sec. 3c, 50 Stat. 62; 7 U.S.C. 473c, Sec. 3d, 55 Stat. 131; 7 U.S.C. 473d.

2. Section 28.123 (7 CFR 28.123) is revised to read as follows:

§ 28.123 Costs of practical forms of cotton standards.

The costs of practical forms of the cotton standards of the United States shall be as follows:

[Dollars each box]

Standards	Domestic shipments f.o.b. Memphis Tenn.	Shipments delivered outside the continental United States
Grade standards		
American Upland:		
12-sample official boxes (Universal Standards)	$150	$180
6-sample guide boxes	80	105
American Pima: 6-sample official boxes	110	135
Standards for Length of Staple		
American Upland (prepared in 1 pound rolls for each length)	11	14
American Pima (prepared in 1 pound rolls for each length)	12	15

3. Section 28.956 (7 CFR 28.956) is revised to read as follows:

§ 28.956 Prescribed fees.

Fees for fiber and processing tests shall be assessed as listed below:

Item No.	Kind of test	Fee per test
1.0	Furnishing USDA calibration cotton in the short, medium, long and extra long staple lengths including standard values for length by both array and Fibrograph methods, strength by flat bundle method at ⅛ inch gauge, and maturity and fineness by the Causticaire methods:	
	a. By surface delivery, 1 lb. sample	$17.00
	b: By air delivery within the U.S., 1 lb. sample	20.00
	c. By air delivery outside the U.S., 1 lb. sample	24.00
2.0	Furnishing international calibration cotton standards with standard values for micronaire reading and Pressley fiber strength and Fibrograph length:	
	a. By surface delivery, ½ lb. sample	12.00
	b. By air delivery within U.S., ½ lb sample	14.00
	c. By air delivery outside the U.S., ½ lb. sample	18.00
3.0	Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ⅛ inch group, average length and average length variability as based on 3 specimens from a blended sample:	
	a. Ginned cotton lint, per sample	60.00
	b. Cotton comber noils, per sample	75.00
	c. Other cotton wastes, per sample	90.00
3.1	Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ⅛ inch group, average length, and average length variability is based on 2 specimens from a blended sample:	
	a. Ginned cotton lint, per sample	45.00
	b. Cotton comber noils, per sample	60.00
	c. Other cotton wastes, per sample	75.00
3.2	Fiber array of cotton samples, including purified or absorbent cotton. Reporting the average percentage of fibers ½ inch and longer by weight, the average of fibers shorter than ¼ inch by weight, average length, and average length variability as based on 3 specimens from each sample, per sample	80.00
4.0	Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 4 specimens from a blended sample, per sample	7.00
	Minimum fee unless performed in connection with other tests requiring a blended specimen	14.00
4.1	Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 2 specimens from each unblended sample, per sample	4.50
	Minimum fee	9.00
5.0	Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛ inch gage as specified by applicant. Reporting the average strength as based on 6 specimens from a blended sample, per sample	7.50
	Minimum fee unless performed in connection with other tests requiring a blended sample	15.00
5.1	Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛ inch gage as specified by applicant. Reporting the strength as based on 2 specimens for each unblended sample, per sample	4.50
	Minimum fee	9.00
5.2	Stelometer strength and elongation of ginned cotton lint by the flat bundle method for ⅛ inch gage. Reporting the average strength and elongation as based on 6 specimens from a blended sample, per sample	7.50
	Minimum fee unless performed in connection with other tests requiring blended sample	15.00
5.3	Stelometer strength and elongation of ginned cotton lint by the flat bundle method for ⅛ inch gage. Reporting the strength and elongation as based on 2 specimens from each unblended sample, per sample	4.50
	Minimum fee	9.00
6.0	Fiber maturity and fineness of ginned cotton lint by the Causticaire method. Reporting the average maturity, fineness, and micronaire reading as based on 2 specimens from a blended sample, per sample	8.00
	Minimum fee	40.00
7.0	Micronaire readings on ginned lint. Reporting the micronaire reading as based on 2 specimens from each sample, per sample	.40
	Minimum fee	4.00
8.0	Neps content of ginned cotton lint. Reporting the neps per 100 square inches as based on the web prepared from a 3-gram specimen by using accessory equipment with the mechanical fiber blender, per sample	12.00
9.0	Cotton carded yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at one of the standard rates of carding of 6½, 9½, or 12½ pounds-per-hour into two of the standard carded yarn numbers of 8s, 14s, 22s, 36s, 44s, or 50s, employing a standard twist multiplier unless otherwise specified, per sample	100.00
9.1	Cotton carded yarn spinning test (open-end) for short staple (3½nd inches and shorter) cottons. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at a carding rate of 12½ pounds-per-hour into 8s yarn using a sliver weight of 60 grains per yard; a rotor speed of 45,000 r.p.m.; an opening roll speed of 7,200 r.p.m.; a twist multiple of 4.5; and a rotar diameter of 46 millimeters	75.00
10.0	Spinning potentials test. Determining the finest yarn which can be spun with no ends down and reporting spinning potential yarn number. This test requires an additional 4 pounds of cotton, per sample	90.00
11.0	Cotton combed yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 8 pounds of cotton in accordance with standard procedures at one of the standard rates of carding of 4½, 6½, or 9½ pounds per hour into two of the standard combed yarn numbers of 22s, 36s, 44s, 50s, 60s, 80s, or 100s employing a standard twist multiplier unless otherwise specified, per sample	125.00
12.0	Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 10 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing the same carding rate and the same yarn numbers for both the carded and the combed yarns, per sample	175.00
13.0	Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 9 pounds of cotton into two of the standard combed yarn numbers employing different carding rates and/or yarn numbers for the carded and combed yarns, per sample	195.00
14.0	Two-pound cotton carded yarn spinning test available to cotton breeders only. Reporting data on yarn skein strength, yarn appearance, yarn neps and the classification and the fiber length of the cotton as well as comments on any unusual processing performance as based on the processing of 2 pounds of cotton in accordance with standard procedures into two standard carded yarn numbers employing a standard twist multiplier, per sample	75.00
15.0	Processing and testing of additional yarn. Any carded or combed yarn number processed in connection with spinning tests including either additional yarn numbers or additional twist multipliers employed on the same yarn numbers, per additional lot of yarn	25.00
15.1	Processing and furnishing of additional yarn. Any yarn number processed in connection with spinning tests. Approximately 300 yards on each of 16 paper tubes for testing by the applicant, per additional lot of yarn	35.00
16.0	Twist in yarns by direct-counting method. Reporting direction of twist and average turns per inch of yarn:	
	a. Single yarns based on 40 specimens per lot of yarn	70.00
	b. Plied or cabled yarns based on 10 specimens, per lot of yarn	18.50
17.0	Skein strength of yarn. Reporting data on the strength and the yarn numbers based on 25 skeins from yarn furnished by the applicant per sample	10.00
17.1	Appearance grade of yarn furnished on bobbins by applicant. Reporting the appearance grade in accordance with ASTM standards as based on yarn wound from one bobbin, per bobbin	4.00
17.2	Furnishing yarn wound on boards in connection with yarn appearance tests, per yarn number	5.00
18.0	Strength of cotton fabric. Reporting the average warp and filling strength by the grab method as based on 5 breaks for both warp and filling of fabric furnished by the applicant, per sample	15.00
18.1	Cotton fabric analysis. Reporting data on the number of warp and filling threads per inch and weight per yard of fabric as based on at least three (3) 6 x 6-inch specimens of fabric which were processed or furnished by the applicant, per sample	25.00
19.0	Color of ginned cotton lint. Reporting data on the reflectance in terms of Rd values and the degree of yellowness in terms of b values as based on the Nickerson-Hunter Cotton Colorimeter on samples which measure 5 x 6½ inches and weigh approximately 50 grams per sample	.60
	Minimum fee	6.00
20.0	Furnishing color standards, including a set of standard tiles and a master diagram for use in calibrating Nickerson-Hunter Cotton Colorimeters, per set	90.00
20.1	Furnishing replacement calibration tiles for above sets, each tile	10.00
20.2	Furnishing a Colorimeter calibration sample box containing 6 cotton samples with color values Rd and + b plotted on a color diagram based on the Nickerson-Hunter Cotton Colorimeter, per box	18.00
20.3	Furnishing new Colorimeter readings on samples in calibration boxes returned for check readings, per 6-sample box	5.00
21.0	Furnishing copies of test data worksheets. Includes individual observations and calculations which are not routinely furnished to the applicant, per sheet	2.00
22.0	Foreign matter content of cotton samples. Reporting data on the non-lint content as based on the Shirley-Analyzer separation of lint and foreign matter:	
	a. For samples of ginned lint or comber noils, per 100-gram specimen	6.00
	Minimum fee	12.00
	b. For samples of ginning and processing wastes other than comber noils, per 100-gram specimen	11.00
	Minimum fee	22.00
23.0	Furnishing identified cotton samples. Includes samples of ginned lint stock at any stage of processing or testing, waste of any type, yarn or fabric selected and identified in connection with fiber and/or spinning tests, per identified sample	2.50
24.0	Furnishing additional copies of test reports. Include extra copies in addition to the 2 copies routinely furnished in connection with each test item, per additional sheet	.75

Item No.	Kind of test	Fee per test
24.1	Furnishing a certified relisting of test results. Includes samples or sub-samples selected from any previous tests, per sheet	10.00
25.0	High Volume Instrument (HVI) Measurements. Reporting micronaire, length (UHM), length uniformity, ⅛ inch gauge strength, color and trash content. Based on a 6 oz. (170 g) sample, per sample	1.30
	Minimum fee	13.00
26.0	Calibration cotton for use with High Volume Instruments, per 5 pound package	75.00
27.0	Sugar content of cotton. Reporting the percent sugar content as based on a quantitative analysis of reducing substances (sugars) on cotton fibers, per sample	4.00
	Minimum fee	20.00
28.0	Classification of ginned cotton lint is available in connection with other fiber tests, under the provisions of 7 CFR 28, § 28.56, at the fees prescribed by 7 CFR 28, § 28.116. Classification includes grade, staple, and micronaire reading based on a 6 oz (170 g) sample.	
29.0	Chemical finishing tests on finished drawing silver. The Ahiba Texomat Dyer is used for scouring, bleaching and dyeing of a 3-gram sample. Color measurements are made on the unfinished, bleached and dyed cotton samples, using a Hunterlab Colorimeter, Model 25 M-3. The color values are reported in terms of reflectance (Rd), yellowness (+ b) and blueness (− b)	10.00
	Minimum fee	30.00

Dated: October 18, 1982.

Vern F. Highley,

Administrator, Agricultural Marketing Service.

[FR Doc. 82-29125 Filed 10-25-82; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 212

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 26

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563f

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

[Docket No. 82-21]

Management Official Interlocks

AGENCIES: Board of Governors of the Federal Reserve System, Comptroller of the Currency, Treasury, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Home Loan Bank Board, Federal Deposit Insurance Corporation and the National Credit Union Administration are amending their respective regulations implementing the Depository Institution Management Interlocks Act to reflect recent changes enacted by Congress in the law. These changes permit a management official whose service in an interlocking relationship is grandfathered under the Act to continue such service for the duration of the ten year grandfather period provided in the Act notwithstanding changes in circumstances. The changes also permit a management official of a depository organization and a nondepository organization to continue such service after the nondepository organization becomes a diversified savings and loan holding company.

EFFECTIVE DATE: The amendments are immediately effective October 26, 1982.

FOR FURTHER INFORMATION CONTACT: Bronwen Mason (202) 452-3564 or Melanie Fein (202) 452-3594, Board of Governors of the Federal Reserve System; Jerome Edelstein or Rosemarie Oda (202) 447-1880, Office of the Comptroller of the Currency; Pamela E. F. LeCren or Barbara I. Gersten (202) 389-4171, Federal Deposit Insurance Corporation; David J. Bristol (202) 377-6461 or Kenneth F. Hall (202) 377-6466, Federal Home Loan Bank Board; or Steven R. Bisker (202) 357-1030, National Credit Union Administration.

SUPPLEMENTARY INFORMATION: The Depository Institution Management Interlocks Act ("Interlocks Act") was enacted as title II of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (Pub. L. No. 95-630, 12 U.S.C. 3201 *et seq.*) The general purpose of the Interlocks Act, and the final regulations issued thereunder, is to foster competition among depository institutions, depository holding companies, and their affiliates by prohibiting management official interlocks between unaffiliated organizations depending upon their size and location. Final regulations implementing the Interlocks Act were published effective July 19, 1979 (44 FR 42152) and were subsequently amended effective May 9, 1980 (45 FR 24384).

Under section 206 of the Interlocks Act (12 U.S.C. 3205) and the current regulations, certain persons are "grandfathered" in their positions as management officials for a period of ten years ending November 10, 1988. The occurrence of specified "changes in circumstances" as provided in the current regulations may result in the earlier termination of grandfathered interlocks.

Those changes in circumstances are defined to include certain mergers, acquisitions, consolidations, and the establishment of certain offices. Title III of Pub. L. 97-110, signed into law on December 26, 1981, amended section 206 to provide specifically that mergers, acquisitions, increases in total asset size, establishment of one or more offices, or change in management responsibilities shall not constitute changes in circumstances that will necessitate early termination of grandfathered interlocks. Due to this statutory change, the agencies are repealing the portion of their respective regulations that sets forth mergers, acquisitions, consolidations, and establishment of certain offices as changes in circumstances that will affect grandfathered interlocks and deleting other references to that provision. This action has the effect of repealing a final amendment to 12 CFR 563f.6(a)(1)(i) adopted by the Federal Home Loan Bank Board on December 4, 1981 (See 46 FR 61249 (1981)).

The amended regulation provides that persons who would have been required to terminate a grandfathered interlock based upon the provision of the regulations now being repealed but who have not yet terminated the interlock and persons who are continuing to serve in an interlocking position under an extension granted by one of the agencies may continue their interlocking service until November 10, 1988. The agencies will solicit comment on whether or not persons who have already terminated an interlock based upon the provision being repealed may resume their interlocking service.

The agencies also are amending their regulations to reflect the addition to section 206 by Pub. L. 97-110 of a new subparagraph (b). Subparagraph (b) permits an individual who serves as a management official of a depository organization and a nondepository organization to remain in that position regardless of the prohibitions of the Interlocks Act if the nondepository organization becomes a diversified savings and loan holding company as that term is defined by 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)). New subparagraph (b) ceases to operate as of November 10, 1988. The change in the law will be reflected in a new subparagraph (c) to the provision of the regulations dealing

with permitted interlocking relationships.

It is the agencies' opinion that the amendment which added subparagraph (b) to section 206 is fully retroactive. Thus, a person who, prior to enactment of the amendment, resigned from either organization after the nondepository corporation became a diversified savings and loan holding company and such resignation was due to the Interlocks Act may resume his or her previous position. Persons who may continue to serve based upon the addition of subparagraph (b) to section 206 must terminate their interlocks no later than November 10, 1988 if they have not done so previously and the interlock is prohibited at that time.

The agencies are undecided on the issue of whether or not persons covered by section 206(b) may continue their interlocking service even though subsequent changes in circumstances occur. It is the agencies' intention to solicit comment on whether or not such interlocks may be affected by subsequent changes in circumstances. Until such time as comment is solicited and the issue fully considered by the agencies, no regulatory action will be taken regarding such interlocks in the event of subsequent changes in circumstances.

The agencies are not soliciting public comment with regard to these final amendments under authority of 5 U.S.C. 553(b), which authorizes waiver of public comment in the case of interpretative rules. The amendments can be considered interpretative as they merely conform the existing regulations to Federal law. The amendments are made effective immediately pursuant to 5 U.S.C. 553(d)(2), which authorizes waiver of a delayed effective date in the case of interpretative rules.

Regulatory Impact Analysis

Pursuant to section 3(g)(1) of Executive Order 12291 of February 17, 1981, it has been determined that the amendments do not constitute a major rule within the meaning of section 1(b) of the Executive Order. The amendments eliminate restrictions imposed by regulations implementing the Depository Institution Management Interlocks Act, 12 U.S.C. 3201 *et seq.* The amendments have no adverse effect on the operations of the depository institutions subject to them. As such, the amendments will not have an annual effect on the economy of $100 million or more, will not affect cost or prices for consumers, individual industries, government agencies or geographic regions, and will not have adverse effects on competition, employment, investment, productivity, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

List of Subjects

12 CFR Part 26

National banks, Management official interlocks.

12 CFR Part 212

Antitrust, Holding companies.

12 CFR Part 348

Antitrust, Banks, Banking, Holding companies.

12 CFR Part 563f

Antitrust, Savings and loan associations.

12 CFR Part 711

Antitrust, Credit unions.

Accordingly, and pursuant to their respective authority under section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207), the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration amend 12 CFR Parts 212, 26, 348, 563f, and 711 respectively, as follows:

BILLING CODE 4810-33-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

Management Official Interlocks

12 CFR Part 348 is amended as follows:

PART 348—[AMENDED]

1. The authority citation for Part 348 reads as follows:

Authority: Sec. 209, Pub. L. No. 95-630, 92 Stat. 3675 (12 U.S.C. 3207).

2. Section 348.4 is amended by revising paragraph (b)(5) and adding paragraph (c) as follows:

§ 348.4 Permitted interlocking relationships.

* * * * *

(b) * * *

(5) *Loss of management officials due to change in circumstance.* If a depository organization is involved in an event described in paragraphs 348.6(a) or 348.6(b) and such event results in the termination of service at the depository organization of 50 percent or more of the organization's directors or of 50 percent or more of the total management officials of the depository organization, such management officials may continue to serve in excess of the time periods provided in §§ 348.6(a) or 348.6(b) subject to the following conditions: (i) Each management official so affected must agree to sever his or her relationship with the depository organization no later than 30 months after the event (so long as the interlock remains prohibited); (ii) the appropriate Federal supervisory agency or agencies determine that the service by such management officials is necessary to provide management or operating expertise; (iii) the depository organization submits a plan for the termination of service by such management officials over the time period provided; and (iv) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(c) *Diversified savings and loan holding company.* Notwithstanding § 348.3, a person who serves as a management official of a depository organization and a nondepository organization is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)). This subparagraph shall cease to operate on November 10, 1988.

3. Section 348.5 is revised to read as follows:

§ 348.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate service in one or more such interlocking positions as a result of a change in circumstances defined in 12 CFR 348.6(a) as it existed prior to October 26, 1982 (12 CFR 348.6(a) (1981)) but who has not terminated such service as of October 26, 1982 is not prohibited from continuing such service until November 10, 1988.

§ 348.6 [Amended]

4. Section 348.6 is amended by removing paragraphs (a) (1) and (2) and redesignating paragraphs (b) (1) and (2) as (a) and (b), respectively.

By Order of the Board of Directors of the Federal Deposit Insurance Corporation this 23rd day of August 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

BILLING CODE 6714-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 26

Management Official Interlocks

12 CFR Part 26 is amended as follows:

PART 26—[AMENDED]

1. The authority citation for Part 26 reads as follows:

Authority: Depository Institution Management Interlocks Act, 92 Stat. 3672 (12 U.S.C. § 3201 *et seq.*).

2. Section 26.4(b)(5) is revised to read as follows:

§ 26.4 Permitted interlocking relationships.

* * * * *

(b) * * *

(5) *Loss of management officials due to change in circumstances.* If a depository organization experiences a change in circumstances described in paragraphs (a) or (b) of § 26.6, and the change requires the termination of service at the depository organization of 50 percent or more of the organization's directors or of 50 percent or more of the total management officials of the depository organization, such management officials may continue to serve in excess of the time periods provided in §§ 26.6(a) or 26.6(b): *Provided,* That: (i) Each management official so affected agrees to sever the prohibited interlocking relationship no later than 30 months after the change in circumstances; (ii) the appropriate Federal supervisory agency or agencies determine that the service by such management officials is necessary to provide management or operating expertise; (iii) the depository organization submits a proposal for the orderly termination of service by such management officials over the time period provided; and (iv) other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

3. Section 26.4 is amended by adding paragraph (c) which reads as follows:

§ 26.4 Permitted interlocking relationships.

* * * * *

(c) *Diversified savings and loan holding company.* Notwithstanding § 26.3, a person who serves as a management official of a depository organization and a nondepository organization is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company, as defined in Section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)). This subparagraph shall cease to operate on November 10, 1988.

4. Section 26.5 is revised to read as follows:

§ 26.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of Section 8 of the Clayton Act (12 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate service in one or more such interlocking positions as a result of a change in circumstances defined in 12 CFR 26.6(a) as it existed prior to October 26, 1982 (12 CFR 26.6(a) (1981)) but who has not terminated such service as of October 26, 1982 is not prohibited from continuing such service until November 10, 1988.

§ 26.6 [Amended]

5. Section 26.6 is amended by removing paragraphs (a) (1) and (2) and redesignating paragraphs (b) (1) and (2) as (a) and (b), respectively.

Dated: August 13, 1982.

C. T. Conover,

Comptroller of the Currency.

BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Part 212

Management Official Interlocks

12 CFR Part 212 is amended as follows:

PART 212—[AMENDED]

1. The authority citation for Part 212 reads as follows:

Authority: 12 U.S.C. 3201 *et seq.*

2. Section 212.4(b)(5) is revised to read as follows:

§ 212.4 Permitted interlocking relationships.

* * * * *

(b) * * *

(5) *Loss of management officials due to change in circumstances.* If a depository organization experiences a change in circumstances described in paragraphs (a) and (b) of § 212.6, and the change requires the termination of service at the depository organization of 50 percent or more of the organization's directors or of 50 percent or more of the total management officials of the depository organization, such management officials may continue to serve in excess of the time periods provided in §§ 212.6(a) or 212.6(b): *Provided,* That: (i) Each management official so affected agrees to sever the prohibited interlocking relationship no later than 30 months after the change in circumstances; (ii) the appropriate Federal supervisory agency or agencies determine that the service by such management officials is necessary to provide management or operating expertise; (iii) the depository organization submits a proposal for the orderly termination of service by such management officials over the time period provided; and (iv) other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

3. Section 212.4 is amended by adding paragraph (c) which reads as follows:

§ 212.4 Permitted interlocking relationships.

* * * * *

(c) *Diversified savings and loan holding company.* Notwithstanding § 212.3, a person who serves as a management official of a depository organization and a nondepository organization is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company, as defined in Section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)). This subparagraph shall cease to operate on November 10, 1988.

4. Section 212.5 is revised to read as follows:

§ 212.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of Section 8 of the Clayton Act (12 U.S.C. 19) is not prohibited from

continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate service in one or more such interlocking positions as a result of a change in circumstances defined in 12 CFR 212.6(a) as it existed prior to October 26, 1982 (12 CFR 212.6(a) (1981)) but who has not terminated such service as of October 26, 1982 is not prohibited from continuing such service until November 10, 1988.

§ 212.6 [Amended]

5. Section 212.6 is amended by deleting paragraphs (a) (1) and (2) and redesignating paragraphs (b) (1) and (2) as (a) and (b), respectively.

By order of the Board of Governors of the Federal Reserve System, effective October 12, 1982.

William W. Wiles,

Secretary of the Board.

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563f

Management Official Interlocks

PART 563f—[AMENDED]

1. Amend § 563f.4 by revising subparagraph (5) of paragraph (b) and by adding a new paragraph (c), to read as follows:

§ 563f.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by Board order.* * * *

(5) *Loss of management officials due to changes in circumstances.* If a depository organization experiences a change in circumstances described in paragraphs (a) or (b) of § 563f.6, and the change requires the termination of service at the depository organization of 50 per cent or more of the organization's directors or of 50 per cent or more of the total management officials of the depository organization, such management officials may continue to serve in excess of the time periods provided in paragraphs (a) and (b) of § 563f.6, provided that: * * *

(c) *Diversified savings and loan holding company.* Notwithstanding § 563f.3 of this Part, a person who serves as a management official of a depository organization and of a nondepository organization is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company, as defined in Section 408(a) of the National Housing Act (12 U.S.C. 1730(a)(1)(F)). This paragraph shall cease to operate on November 10, 1988.

2. Revise § 563f.5, to read as follows:

§ 563f.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (12 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate service in one or more such interlocking positions as a result of a change in circumstances defined in § 563f.6(a) as it existed prior to October 26, 1982 (12 CFR 563f.6(a) (1981)), but who has not terminated such service as of October 26, 1982, is not prohibited from continuing such service until November 10, 1988.

§ 563f.6 [Amended]

3. Revise § 563f.6 by removing existing paragraph (a), and by redesignating existing subparagraphs (1) and (2) of paragraph (b) as paragraphs (a) and (b), respectively.

(Pub. L. No. 95-630 (12 U.S.C. 3201 *et seq., as amended by* International Banking Facility Deposit Insurance Act, Pub. L. No. 97-110, 302 (December 26, 1981)); Reorg. Plan No. 3 of 1947; 3 CFR, 1943-1948 comp., p 1071.)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

BILLING CODE 6720-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

Management Official Interlocks

12 CFR Part 711 is amended as follows:

PART 711—[AMENDED]

1. The authority citation for Part 711 reads as follows:

Authority: Sec. 209, Pub. L. No. 95-630, 92 Stat. 3675 (12 U.S.C. Section 3207).

2. Section 711.4 is amended by revising paragraph (b)(5) and by adding paragraph (c) as follows:

§ 711.4 Permitted interlocking relationships.

* * * * *

(b) * * *

(5) *Loss of management officials due to changes in circumstances.* If a depository organization is involved in an event described in paragraphs (a) or (b) of § 711.6, and such event results in the termination of service at the depository organization of 50 percent or more of the organization's directors or of 50 percent or more of the total management officials of the depository organization, such management officials may continue to serve in excess of the time periods provided in paragraphs (a) and (b) of § 711.6, provided that: (i) The appropriate Federal supervisory agency or agencies determines that the service by such management officials is necessary to provide management or operating expertise; (ii) each management official so affected agrees to sever the prohibited interlocking relationship no later than 30 months after the event (so long as the interlock remains prohibited); (iii) the depository organization submits a proposal for the orderly termination of service by such management officials over the time period provided, and (iv) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(c) *Diversified savings and loan holding company.* Notwithstanding § 711.3, a person who serves as a management official of a depository organization and a nondepository organization is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. Section 1730a (a)(1)(F)). This subparagraph shall cease to operate on November 10, 1988.

3. Section 711.5 is revised to read as follows:

§ 711.5 Grandfathered interlocking relationships.

(a) A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. Section 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate service in one or more such interlocking positions as a result of a change in circumstances defined in 12 CFR § 711.6(a) as it exists prior to October 26, 1982 but who has not terminated such service as of October 26, 1982 is not prohibited from continuing or resuming such service until November 10, 1988.

§ 711.6 [Amended]

4. Section 711.6 is amended by removing subparagraphs (a)(1) and (2) and redesignating (b)(1) and (2) as (a) and (b), respectively.

Dated: October 12, 1982.

Rosemary Brady,

Secretary, National Credit Union Administration Board.

[FR Doc. 82-29288 Filed 10-25-82; 8:45 am]

BILLING CODE 7535-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 571

[No. 82-676]

Employment Contracts; Correction

Date: October 6, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; correction.

SUMMARY: The Federal Home Loan Bank Board corrects the final amendments to its employment contracts regulations which were published at 47 CFR 17471 (April 23, 1982).

EFFECTIVE DATE: April 15, 1982.

FOR FURTHER INFORMATION CONTACT: Peter M. Barnett, (202-377-6445), Associate General Counsel, or Cynthia D. Farmer, (202-377-6441, Legal Assistant, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C., 20552.

SUPPLEMENTARY INFORMATION: On April 15, 1982, the Federal Home Loan Bank Board adopted amendments pertaining to employment contracts so that federal and state-chartered institutions are subject to the same rules governing employment contracts entered into by institutions and their officers. Board Resolution No. 82-268 (April 15, 1982); 47 FR 17471, Published (April 23, 1982). The final rule inadvertently referred to paragraph (e) of 12 CFR 571.5; however, paragraph (e) already had been redesignated as paragraph (d) by a final rule published on November 4, 1981 (46 FR 54724).

§ 571.5 [Corrected]

Accordingly, the Board is correcting FR Doc 82-11214, appearing at 47 FR 17471, by changing the reference to paragraph (e) of 12 CFR 571.5 to read as paragraph (d)

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Sec. 402, 403, 407, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071).

By the Federal Home Loan Bank Board.

Thomas P. Vartanian,

General Counsel.

[FR Doc. 82-29352 Filed 10-25-82; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 77N-0037]

GRAS Status of Certain Red and Brown Algae and Their Extractives

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming, with specific limitations, that certain red and brown algae and alginic acid are generally recognized as safe (GRAS) as direct human food ingredients and is removing the brown algae *Nereocystis spp.* from the GRAS list. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

EFFECTIVE DATE: November 26, 1982.

FOR FURTHER INFORMATION CONTACT: Leonard C. Gosule, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-426-9463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 4, 1978 (43 FR 34500), FDA published a proposal to affirm that the brown algae *Macrocystis pyrifera* is GRAS for use as a direct human food ingredient and to remove red algae, certain brown algae, and the extractives from red and brown algae (including alginic acid) from the list of direct food substances that are considered GRAS. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on algae and the report of the Select Committee on GRAS Substances (the Select Committee) on certain red and brown algae have been made available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents have also been made available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of the brown algae *Macrocystis pyrifera*, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient use for these substances, other than for the proposed conditions of use. Persons asserting such additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of the prior-sanctioned use could be determined. That notice was also an opportunity to have prior-sanctioned uses of these ingredients recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186) as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned uses for red and brown algae or alginic acid were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for uses of red and brown algae or alginic acid under conditions different from those set forth in the final regulation has been waived.

One hundred twenty-six comments were submitted on the agency's proposal on red and brown algae and their extractives. One hundred eleven of these comments were not relevant to the issues addressed in the proposal. Those comments discussed the consumption of algae directly as food, the purported but undocumented health benefits of algae consumption, or the widespread acceptance of algae as food by Americans of Oriental descent. The agency emphasizes that this document addresses only the use of algae, in conjunction with spices, seasonings, and flavorings, as a flavor enhancer or flavor adjuvant. This document does not address, and therefore does not affect, the consumption of algae directly as food. The other comments and the agency's conclusions are summarized below:

1. One comment objected to the treatment of seaweed extractives in the proposed regulation, claiming that they had been addressed previously in the **Federal Register** of January 1, 1978.

The agency notes that no **Federal Register** was published on January 1, 1978. This comment may have been referring to the proposed rule on alginates, which was published in the

Federal Register of January 27, 1978 (43 FR 3725). That proposal addressed the ingredients ammonium alginate, calcium alginate, potassium alginate, and sodium alginate, which are currently listed as GRAS for use as stabilizers. It did not address either alginic acid or the extractives of red and brown algae currently listed in 21 CFR 182.40 as GRAS for use in conjunction with spices, seasonings, and flavorings. Consequently, it is appropriate for the agency to address red and brown algae and alginic acid in this final rule.

2. Five comments referred to the annual poundages of algae involved in commercial trade. Of these, three comments reported the amounts of algae annually used in or imported into the United States, and two comments reported the amounts of algae annually produced or consumed in Japan. However, none of these comments identified the species of algae involved, intended technical effects, the specific uses, or the use levels. This information is required as a basis for developing FDA GRAS affirmation regulations. Consequently, the agency did not make any change in the final rule on the basis of this information.

3. Four comments contained nutrition information, general characteristics of a variety of algae, or references to the published literature on algae. Although these comments provide valuable additions to the agency's file on algae, they did not necessitate any substantive change in the regulation.

4. Four comments addressed the uses of algae as condiments or as flavorings and seasonings. In two of these comments, the species of algae used were identified. The species of brown algae mentioned were: *Analipus japonicus, Eisenia bicyclis, Hizikia fusiforme, Kjellmaniella gyrata, Laminaria angustata, Laminaria claustonia, Laminaria digitata, Laminaria japonica, Laminaria longicruris, Laminaria longissima, Laminaria ochotensis, Laminaria saccharina, Petalonia fasica, Scytosiphon lomentaria,* and *Undaria pinnatifida.* The species of red algae mentioned were: *Gloiopeltis furcata, Porphyra crispata, Porphyra deutata, Porphyra perforata, Porphyra suborbiculata, Porphyra tenera,* and *Rhodymenia palmata.*

All these species were reported to be consumed currently in the United States. Consequently, FDA has modified the proposed rule to affirm these species as GRAS for use as flavorings, seasonings, and spices. The agency is not aware of any current use of *Nereocystis spp.* as a flavoring, seasoning, or spice, however. Therefore, the agency is removing the use of this ingredient from the GRAS list as proposed.

5. One comment objected to revoking the use of red and brown algae as spices, flavoring, and seasonings because this action would affect the diet of many Americans of Asian descent. The comment provided no further elaboration concerning the types of effects expected.

FDA believes that the other comments on this proposed rule, which were discussed above, have identified the species of red and brown algae that are safe and that are currently used as spices, flavorings, and seasonings in the United States. These species are affirmed as GRAS in this final rule. Consequently, the agency believes this final rule will not adversely affect the diet of any group of Americans.

6. Three comments requested that algae not be removed from the GRAS list because of lack of use because there are no unfavorable safety data.

FDA has previously emphasized that use information is very important in assessing the safety of GRAS food ingredients (21 CFR 170.30 (i), (j), and (k) and 21 CFR 170.35(b)(1)). Consequently, the agency did not make any change in the regulations on the basis of these comments.

7. One comment requested a hearing to ascertain the facts on edible seaweed use in the United States.

The agency believes that ample opportunity has been provided to ascertain these facts during the proposal's comment period. Consequently, the agency believes no hearing is needed.

8. One comment reported the use of alginic acid as a tablet disintegrant in prescription drugs, over-the-counter drugs, vitamin tablets, mineral tablets, and various special dietary food tablets.

FDA's review of the safety of GRAS food ingredients addresses only the use of those ingredients in conventional food.[1] The agency does not consider the uses of alginic acid described in this comment to be conventional food uses. Consequently, these uses of alginic acid are not affected by this regulation.

9. Four comments addressed the uses of alginic acid in food. Of these, one comment from a confectioner's trade association questioned whether the absence of current uses for alginic acid justified its removal from GRAS status. One comment requested that alginic acid be affirmed as GRAS simply because certain aliginate salts have already been affirmed as GRAS. Three comments reported uses of alginic acid as a stabilizer and thickener or emulsifier in soups and soup mixes. Only one of these comments provided the quantitative use information required as a basis for evaluating the safe use of the ingredient. The comment indicated that alginic acid is used as a stabilizer and thickener in dehydrated oriental-style noodles at the level of 0.049 gram per two one-cup servings.

FDA has used data in Table 7 of U.S. Department of Agriculture Statistical Bulletin No. 616 to calculate that the density of canned soups is about 230 to 240 grams per cup, as served. Using these values, and the levels of alginic acid reported in the comment (0.049 grams per two one-cup servings), the agency has estimated the level of alginic acid in these products, as served, to be 0.01 percent. The agency concludes that sufficient safety data are contained in its GRAS safety reviews on alginates and red and brown algae to affirm this use of a alginic acid, which is derived from brown algae. However, because the calculated use level is based on an approximate value for the density of the finished product, the agency concludes it would be inappropriate to specify a precise use level for alginic acid in these products. Nevertheless, the agency considers that the restriction of this ingredient to use in soups and soup mixes does constitute a specific limitation on it use and is therefore consistent with the conditions under which inorganic salts of alginic acid have been affirmed as GRAS (see 47 FR 29946; July 9, 1982). Therefore, FDA has modified its proposed rule to affirm as GRAS the use of alginic acid in soups and soup mixes at a level not to exceed current good manufacturing practice.

10. Although FDA is affirming brown and red algae as GRAS for use in spices at levels that do not exceed current good manufacturing practice, it is doing so in accordance with § 184.1(b)(2) (21 CFR 184.1(b)(2)) and not § 184.1(b)(1), as is customarily the case. The agency is deviating from its usual practice because of its decision, announced in the proposal, to concur in the conclusion of the Select Committee. The Select Committee concluded that no evidence demonstrates or suggests reasonable grounds to suspect a hazard to the public when red and brown algae are used at current levels or at levels that might reasonably be expected in the future (see 43 FR 34502). Consistent with its agreement with this conclusion, FDA has not established any restriction on the levels at which these substances may be used other than that they be used at levels that are consistent with

[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

current good manufacturing practice. However, the Select Committee conditioned its conclusion by adding the qualification that use of these substances be "confined to ingredients of spices, seasonings, and flavorings." The agency believes that this qualification constitutes a specific limitation on the use of red and brown algae as food ingredients, and therefore that the uses of these substances should be restricted in the manner set forth in § 184.1(b)(2). These restrictions apply only to the use of these substances as food ingredients and do not affect their use directly as foods.

11. Four comments addressed the specifications proposed for food-grade algae. Three of these comments reported the results of heavy metals determinations in several species of algae.

FDA stated in the proposed rule that it is aware of the Select Committee's concern that a harmful concentration of certain heavy metals may accumulate in commercial algae, particularly if the algae are harvested from coastal waters that are contaminated with significant levels of heavy metals. The agency also stated its intention to investigate background levels of individual heavy metals (arsenic, cadmium, lead, mercury, selenium, and zinc) in algae to determine whether the Food Chemicals Codex specification for "heavy metals (as Pb)" should be replaced by separate specifications for each heavy metal.

FDA has evaluated the results of its own analyses as well as those reported in the comments. On the basis of this evaluation, the agency concludes that the consumption of these metals from the kelp used in conjunction with flavorings, seasonings, or spices is low and poses no undue risk to the exposed population. The agency also believes that the data currently available are not sufficient to support the establishment of separate specifications for each of the heavy metals mentioned above. Therefore, the agency is taking no action at this time with regard to modifying the Food Chemicals Codex specifications for kelp. In addition, the agency notes that a third edition of the Food Chemicals Codex has been printed since publication of the proposal, and this edition has been incorporated by reference in the final rule.

12. Specifications for dulse (red algae) were proposed in one comment. These proposed specifications for dulse were in general agreement with the Food Chemicals Codex specifications for kelp, except that the "loss on drying" specification suggested in the comment for dulse was not more than 20 percent, and the corresponding iodine levels were between 0.005 percent and 0.05 percent. The Food Chemicals Codex monograph on kelp specifies a loss on drying of not more than 13 percent and iodine levels between 0.15 percent and 0.22 percent.

The Food Chemicals Codex procedure for determining iodine in kelp is not sensitive enough to measure accurately iodine at 0.005 percent in dulse. Furthermore, the agency finds no need to establish a lower limit on iodine levels in dulse to ensure safety. Consequently, this regulation does not establish a lower limit on the iodine level for dulse. However, FDA has modified the proposed rule to include the other food-grade specifications suggested by this comment for dulse. These specifications are identical to the Food Chemicals Codex specifications for kelp except that the agency has established a loss on drying of not more than 20 percent and an upper limit of 0.05 percent iodine.

The format of the regulations is different from that in previous GRAS affirmation regulations. The agency has modified the form in which the specific limitations on the use of these ingredients is presented. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (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.

The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this rule, and the agency has determined that the rule is not a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. In Part 182:

§ 182.30 [Removed]

a. By removing § 182.30 *Natural substances used in conjunction with spices and other natural seasonings and flavorings.*

§ 182.40 [Amended]

b. In § 182.40 *Natural extractives (solvent-free) used in conjunction with spices, seasonings, and flavorings* by removing the entries for "Algae, brown," Algae, red." "Dulse" and "Kelp (see algae, brown)."

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 184:

a. By adding new § 184.1011, to read as follows:

§ 184.1011 Alginic acid.

(a) Alginic acid is a colloidal, hydrophilic polysaccharide obtained from certain brown algae by alkaline extraction.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 13, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(2), the ingredient is used in food only within the following specific limitations:

Category of food	Maximum level of use in food (as served)	Functional use
Soup and soup mixes, § 170.3(n)(40) of this chapter.	Not to exceed current good manufacturing practice.	Emulsifier, emulsifier salt, § 170.3(o)(8) of this chapter; formulation aid, § 170.3(o)(14) of this chapter; stabilizer, thickener, § 170.3(o)(28) of this chapter.

(d) Prior sanctions for this ingredient different from the use established in this section do not exist or have been waived.

b. By adding new § 184.1120, to read as follows:

§ 184.1120 Brown algae.

(a) Brown algae are seaweeds of the species *Analipus japonicus, Eisenia bicyclis, Hizikia fusiforme, Kjellmaniella gyrata, Laminaria angustata, Laminaria claustonia, Laminaria digitata, Laminaria japonica, Laminaria longicruris, Laminaria longissima, Laminaria ochotensis, Laminaria saccharina, Macrocystis pyrifera, Petalonia fascia, Scytosiphon lomentaria* and *Undaria pinnatifida.* They are harvested principally in coastal waters of the northern Atlantic and Pacific oceans. The material is dried and ground or chopped for use in food.

(b) The ingredient meets the specifications for kelp in the Food Chemicals Codex, 3d Ed. (1981), p. 157, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L ST. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(2), the ingredient is used in food only within the following specific limitations:

Category of food	Maximum level of use in food (as served)	Functional use
Spices, seasonings, and flavorings, § 170.3(n)(26) of this chapter.	Not to exceed current good manufacturing practice.	Flavor enhancer, § 170.3(o)(11) of this chapter; flavor adjuvant, § 170.3(o)(12) of this chapter.

(d) Prior sanctions for this ingredient different from the use established in this section do not exist or have been waived.

c. By adding new § 184.1121 to read as follows:

§ 184.1121 Red algae.

(a) Red algae are seaweeds of the species *Gloiopeltis furcata, Porphyra crispata, Porphyra deutata, Porphyra perforata, Porphyra suborbiculata, Porphyra tenera* and *Rhodymenia palmata. Porphyra* and *Rhodymenia* are harvested principally along the coasts of Japan, Korea, China, Taiwan, and the East and West coasts of the United States. *Gloiopeltis* is harvested principally in southern Pacific coastal waters. The material is dried and ground or chopped for use in food.

(b) The ingredient meets the specifications for kelp in the Food Chemicals Codex, 3d Ed. (1981), p. 157, which is incorporated by reference, except that the loss on drying is not more than 20 percent and the maximum allowable level for iodine is 0.05 percent. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(2), the ingredient is used in food only within the following specific limitations:

Category of food	Maximum level of use in food (as served)	Functional use
Spices, seasonings, and flavorings, § 170.3(n)(26) of this chapter.	Not to exceed current good manufacturing practice.	Flavor enhancer, § 170.3(o)(11) of this chapter; flavor adjuvant, § 170.3(o)(12) of this chapter.

(d) Prior sanctions for this ingredient different from the use established in this section do not exist or have been waived.

Effective date. This regulation shall be effective November 26, 1982.

(Secs. 201(s)', 409, 701(a)', 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C 321(s)', 348, 371(a)))

Dated: September 17, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

Note.—Incorporation by reference approved by the Director of the Office of the Federal Register on March 31, 1982, and is on file at the Office of the Federal Register.

[FR Doc. 82-29222 Filed 10-25-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Pyrantel Pamoate Paste

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Pfizer. Inc., providing for safe and effective oral use of pyrantel pamoate paste as an anthelmintic in horses and ponies.

EFFECTIVE DATE: October 26, 1982.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 E. 42d St., New York, NY 10017, filed an NADA (129-831) providing for use of a pyrantel pamoate paste in horses and ponies for removal and control of mature infections of large strongyles, small strongyles, pinworms, and large roundworms. The firm currently holds approval for use of pyrantel pamoate suspension formulation (NADA 91-739) in horses and ponies at the same dosage level and against the same parasites. The combination of a comparative critical (worm count) study (i.e., paste vs. suspension), clinical field studies, and copies of published literature constitutes sufficient evidence to conclude that Pfizer's pyrantel pamoate paste formulation is comparably effective against all the parasites now indicated for its suspension formulation. Approval of this NADA relies in part upon safety and effectiveness data contained in Pfizer's NADA, 91-739. The NADA is approved, and the regulations are amended to reflect the approval.

This approval does not change the approved use of the active ingredient, but instead provides an alternative drug vehicle containing an increased concentration of the active ingredient. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as would an approval of a Category II supplement. Therefore, it did not require reevaluation of the safety and effectiveness data in NADA 91-739.

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

The Bureau of Veterinary Medicine had 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.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral.

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) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.2044, to read as follows:

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

§ 520.2044 Pyrantel pamoate paste.

(a) *Specifications.* Each milliliter of paste contains 180 milligrams of pyrantel base (as pyrantel pamoate).

(b) *Sponsor.* See 000069 in § 510.600(c) of this chapter.

(c) *Conditioners of use.* It is used in horses and ponies as follows:

(1) *Amount.* Equivalent of 3 milligrams pyrantel base per pound of body weight.

(2) *Indications for use.* For removal and control of infections from the following mature parasites: large strongyles (*Strongylus vulgaris, S. edentatus, S. equinus*); small strongyles; pinworms (*Oxyuris equi*); and large roundworms (*Parascaris equorum*).

(3) *Limitations.* Administer as single dose by depositing paste on dorsum of the tongue using the dose syringe. Not for use in horses intended for food. It is recommended that severely debilitated animals not be treated with this preparation. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

Effective date. October 26, 1982.

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

Dated: October 19, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-29338 Filed 10-25-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

Removal of Conditions of Approval of the New Mexico Permanent Program

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

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 931 to remove certain of the conditions of approval of the New Mexico permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act).

New Mexico received approval of its permanent program effective December 31, 1980, subject to the State's satisfaction of 12 conditions of approval. On July 9, 1982, and July 29, 1982, New Mexico submitted to the Department of the Interior provisions to satisfy six conditions of approval. The Secretary is approving certain of the amendments submitted by the State and removing four conditions of approval. With regard to certain other amendments the Secretary has determined the provisions do not fully satisfy the conditions of approval which they are intended to satisfy and, therefore, the Secretary is granting the State additional time to submit further revisions.

EFFECTIVE DATE: October 26, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION: On February 28, 1980, OSM received a proposed regulatory program from the State of New Mexico. On December 31, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the proposed program conditioned on the correction of 12 minor deficiencies (45 FR 86459-86490).

In accepting the Secretary's conditional approval, New Mexico agreed to submit provisions to satisfy conditions "a"-"d" and "f"-"l" by July 1, 1981, and a provision to meet condition "e" by January 28, 1982. Subsequently, New Mexico requested that the deadline for the State to meet conditions "a"-"d" and "f"-"l" be extended until February 28, 1982. On October 30, 1981 (46 FR 54070), OSM announced its decision to grant New Mexico's request. In response to a further request by the State in December 1981, the Secretary reexamined conditions "a"-"c" and "e"-"l" in light of proposed and final changes to the Federal permanent program rules. As a result of that reexamination, the Secretary decided to remove conditions "a" and "k", to extend the deadline for the State to meet conditions "b", "c", "f", "g", "i" and "l" to July 31, 1982, and to extend the deadline for the State to meet conditions "e", "h", and "j" to March 15, 1983 (47 FR 23150-23153, May 27, 1982).

On February 28, 1982, New Mexico submitted to OSM a policy statement to satisfy condition "d". Following a review of that material as outlined in 30 CFR 732, the Secretary determined that the amendment submitted by the State satisfied condition "d". Notice of the Secretary's decision to remove that condition was published in the **Federal Register** on May 27, 1982 (47 FR 23153-23155).

On July 9, 1982, New Mexico submitted regulatory revisions adopted by the New Mexico Coal Surface Mining Commission on that date which are intended to satisfy conditions "b", "c", "f", "g", "i" and "l". On July 29, 1982, OSM issued notice in the **Federal Register** of a public hearing and comment period on those amendments (47 FR 32738-32739). Subsequently, OSM announced an extension of the comment period to allow opportunity for commenters to review additional materials submitted to OSM by New Mexico on July 29, 1982, in satisfaction of conditions "b", "c", "f", "g", "i" and "l" (47 FR 36226-36227, August 19, 1982).

Findings

After thoroughly reviewing the amendments submitted to OSM by New Mexico on July 9, 1982, and July 29, 1982, to satisfy the Secretary's conditions of approval as listed at 30 CFR 931.11 (b), (c), (f), (g), (i) and (l), and after reviewing the public comment received on those amendments, the Secretary has made the following determinations:

1. To satisfy condition "b", New Mexico has amended State regulation 4-17(a) by deleting the requirement that a hearing connected with an unsuitability petition be adjudicatory in nature. The Secretary finds this revision partially satisfies condition "b". As discussed in finding 4(k)(ii) in the December 31, 1980 **Federal Register** notice announcing conditional approval of New Mexico's program (45 FR 86474) the Secretary was concerned that the State's requirement that the hearing be adjudicatory conflicted with the provisions of 30 CFR 764.17 that the hearing be legislative and fact-finding in nature, without cross-examination of witnesses. While New Mexico has deleted the requirement at regulation 4-17(a) that a hearing be adjudicatory in nature, the State has not added any language to clarify just how the hearing will proceed.

Condition "b" of the Secretary's approval of New Mexico's program requires that the State provide written procedures and regulations detailing how the hearing will operate. As discussed in the December 31, 1980 notice, the Secretary acknowledged that the type of "adjudicatory" hearing which has a well-developed tradition in New Mexico regulatory agencies may be consistent with Federal requirements since any person can elect that the hearing, as it involves his or her testimony, be strictly legislative in nature and thus the procedure would not

have a chilling effect on the designation petition process. New Mexico's hearing process, however, has not been formalized. The Secretary finds that he cannot determine if the State's approach is consistent with Federal requirements because the State has not submitted implementing procedures or regulations.

On July 29, 1982, the State did submit to OSM a copy of procedures used by the Mining and Minerals Division in conducting a recent hearing regarding an unsuitability petition; these were agreed to by the parties involved in that hearing. However, the procedures have not been adopted by the Mining and Minerals Division for use at all unsuitability petition hearings.

Hence, the Secretary has determined that New Mexico has not fully satisfied condition "b". However, because New Mexico submitted material to satisfy this condition which the State, in good faith, believed to be adequate, the Secretary has decided to extend the date for New Mexico to satisfy condition "b" in order to allow the State time to draft further modifications to its program to address the deficiencies noted above. The Secretary hereby extends the date by which New Mexico must satisfy condition "b" to March 15, 1983.

2. State regulation 19–15 has been revised to delete the specific variance for return to approximate original contour on exploration sites. The Secretary has determined the State regulation, as amended July 9, 1982, is consistent with 30 CFR 815.15 and, thus, the Secretary finds the State has satisfied condition "c".

3. State regulation 20–102(a)(2)(iv) has been modified to require that the retained portion of a highwall shall not exceed the pre-existing cliff length. The rule, as amended, further specifies that the Director may require shorter lengths.

The Secretary finds that with this change, New Mexico's alternative to the Federal regulations which allows certain limited stretches of highwall to remain after mining is a fully acceptable means of implementing Sections 515 and 516 of SMCRA and is consistent with the regulations in 30 CFR Chapter VII. Thus, the Secretary finds New Mexico has satisfied condition "f".

4. New Mexico has amended the State regulation to revise the definition of "Unconsolidated Streamlaid Deposits Holding Streams" by inserting the word "other" in place of "intermittent". With this revision, the State's definition now covers "ephemerial streams" and, therefore, is consistent with the definition of that term provided at 30 CFR 701.5. Thus, the Secretary finds that New Mexico has satisfied condition "g".

5. New Mexico regulation 29–12(b) concerning citizen request for inspections, has been amended to eliminate the typographical error that it contained. Thus, the Secretary finds New Mexico has satisfied condition "i'

6. New Mexico regulation 11–19(o) which sets forth one of the "criteria for permit approval or denial" has been amended to include a reference to "the Endangered Species Act of 1973 (16 U.S.C. 153 *et seq.*)".

Regulation 11–19(o) as initially submitted by New Mexico for the Secretary's approval provided that the regulatory authority shall not approve a permit or a revision to a permit unless the Director finds that the activities "would not affect the continued existence of endangered or threatened species, indigenous to the State, or result in the destruction or adverse modification of their critical habitats contrary to State or Federal law." As discussed in finding 4(d)(vi) in the December 31, 1980 **Federal Register** notice, announcing the Secretary's conditional approval of New Mexico's program (45 FR 86468), the Secretary found that the State's use of the phrase "indigenous to the State" in conjunction with "endangered or threatened species" limited the protection to only those species that are native and not introduced. The Secretary found that New Mexico's regulation would not provide adequate protection to migratory species or species that merely pass through the State periodically, but do not necessarily establish any form of permanent resident status.

Consequently, as a condition of approval, the Secretary required that New Mexico amend regulation 11–19(o) to be consistent with the Federal regulation at 30 CFR 786.19(o) which provides for the protection of migratory and other endangered or threatened species as determined under the Endangered Species Act of 1973.

Although New Mexico has amended State regulation 11–19(o) to include a reference to the Endangered Species Act of 1973 (16 U.S.C. 153 *et seq.*), the Secretary finds that the manner in which the new language has been inserted in State regulation 11–19(o) does not broaden the protection to include migratory species.

The State regulation, as amended, reads as follows:

(o) The Director has found that the activities would not affect the continued existence of endangered or threatened species, indigenous to the State, or result in the destruction or adverse modification of their critical habitats contrary to the Endangered Species Act of 1973 (16 U.S.C. 153 *et seq.*) or other State or Federal law.

Because the reference to the Federal Act modifies the phrase "endangered or threatened species, indigenous to the State", the Secretary finds that the State rule still limits protection to species "indigenous" to the State.

The Secretary finds that in order to insure that the State's program provides for the protection of migratory species consistent with 30 CFR 786.19(o), State regulation 11–19(o) should be further amended to provide that permit approval or revision shall not be granted unless the Director has found that the activities would not affect threatened or endangered species that are indigenous to the State *or* any other species covered by the Endangered Species Act of 1973.

Because New Mexico submitted material to satisfy this condition which the State, in good faith, believed to be adequate, the Secretary has decided to extend the date for New Mexico to satisfy condition "1" in order to allow the State time to draft a further revision to its program to address the deficiency noted above. The Secretary hereby extends the date by which New Mexico must satisfy condition "1" to March 15, 1982.

7. In addition to the regulatory amendments intended to address conditions of approval, New Mexico modified State regulation 20–71(i) to eliminate the typographical error contained in that section. The Secretary has determined that this amendment is acceptable under the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17.

Public Comment

Four comments were received by OSM in response to the **Federal Register** notices published July 29, 1982, and August 19, 1982, announcing receipt of the amendments submitted by New Mexico.

The S F Coal Corporation commented that it was opposed to OSM's regulatory requirement that hearings on unsuitability petitions be legislative and fact-finding in nature. On June 10, 1982, OSM proposed modifications to the Federal regulations at 30 CFR 760–769 which govern the procedures for designating lands unsuitable for mining (47 FR 25278–25306). Comment on the proposed rules was invited through September 10, 1982. As the S F coal company's comments pertain to the Federal requirements for hearings on unsuitability petitions, a copy of the company's letter has been entered into the administrative record which is being maintained for OSM's current

rulemaking effort on the Federal lands unsuitable regulations. The company's comments will be addressed in the final rule modifying the Federal requirements.

Mr. Paul E. Frye, DNA—People's Legal Service, Inc., submitted several comments pertaining to the Secretary's conditional approval of New Mexico's program and the Secretary's approval of extensions of the deadlines for the State to satisfy conditions of approval. As noted above, this rulemaking addresses the adequacy of the amendments submitted by New Mexico in satisfying the conditions of approval. Because Mr. Frye's comments relative to the conditional approval and extensions are outside the scope of this rulemaking, no response is provided. With respect to the adequacy of the amendments in meeting the conditions, Mr. Frye made the following comments.

With reference to regulation 11–19(o), Mr. Frye asserted that the State has retained the limiting phrase "indigenous to the State" contrary to 30 CFR 786.19. As noted above in Finding 6, the Secretary agrees with the commenter's point that New Mexico regulation 11–19(o), as amended, still limits protection to endangered or threatened species "indigenous" to the State. For this reason, the Secretary has extended the deadline for New Mexico to satisfy condition "1" in order to allow the State time to correct this deficiency.

Concerning regulation 4–17(a), Mr. Frye stated that New Mexico has failed to state, pursuant to 30 CFR 764.17 that the nature of the hearing shall be legislative and fact-finding in nature. As discussed in Finding 1 above, the Secretary has determined that the amendment to New Mexico regulation 4–17(a) does not satisfy condition "b" because the State rule, as amended, does not clarify what the nature of a hearing on an unsuitability petition will be. Therefore, the Secretary has extended the deadline for New Mexico to satisfy condition "b" in order to allow the State time to further amend its program to be consistent with the Federal rule at 30 CFR 765.17.

In addition, Mr. Frye noted that the State has made no substantive change to regulation 20–71(i), and therefore he contended, it is still inadequate. The amendment to regulation 20–71(i) was adopted by New Mexico only for the purpose of correcting the typographical error which that Section contained. The amendment is not intended to address a condition of approval. Condition "a", which called for the State to revise State regulation 20–17(i) to be consistent with 30 CFR 816.71(i), was removed by the Secretary on May 27, 1982 (47 FR 23150–23153). As discussed in the May 27, 1982 notice, the Secretary reexamined each of the conditions of approval of New Mexico's program in light of OSM's revised standards for approval of State programs at 30 CFR Parts 730–732, which allow States to adopt alternatives to the Federal regulations provided they are no less effective than the Federal rules in meeting the purposes of the Act. The Secretary determined that although New Mexico's provision at 20–71(i) is not identical to the Federal rule, it is no less effective than the Federal standard in meeting the purpose of Section 515(b)(22) of the Act. Hence, the Secretary removed condition "a".

He also pointed out that the amendments submitted by the State have not been promulgated pursuant to New Mexico law 6–25A–6, N.M.S.A., inasmuch as no public hearing was held and no submission of arguments or examination of witnesses was allowed before the Commission. The Secretary has determined that the amendments submitted to OSM by New Mexico on July 9, 1982 were, in fact, promulgated in accordance with New Mexico law 69–25A–6, N.M.S.A., "Procedures for Adopting Regulations." A public hearing on the amendments was held by the New Mexico Coal Surface Mining Commission on July 9, 1982. Advertisement of the hearing was provided 30 days prior to the date it was held in two newspapers published in Albuquerque, in one newspaper published in Farmington and in one newspaper published in Gallup. A transcript of the hearing proceedings is available to the public at the New Mexico Energy and Minerals Division, 525 Camino de los Marquez, Sante Fe, New Mexico 87501.

The U.S. Department of Agriculture (USDA) commented, with regard to condition "c", that it could see nothing wrong with allowing the Director discretion to waive requirements for returning disturbed areas to original contour, if in fact doing so would cause excessive environmental degradation. As noted in the Secretary's finding in the December 31, 1980, **Federal Register** notice announcing conditional approval of New Mexico's program (45 FR 86470), the Secretary recognized the potential benefit that might be derived from implementing this provision. However, the Secretary determined the provision, as it stood, was too open-ended, and, therefore, required the State to place some limitations on the discretion allowed the Director. New Mexico chose to delete the provision rather than modify it to limit the discretion. As amended, the State's regulation is consistent with 30 CFR 815.15, and, therefore, the Secretary approves it.

USDA also commented with respect to regulation 29–12(b) that the last sentence does not appear clear. The Secretary finds that regulation 29–12(b) has been amended to eliminate the typographical error previously contained in that rule, thus removing the ambiguity.

The Fish and Wildlife Service (FWS), Albuquerque, New Mexico, noted that New Mexico has revised the language of Section 11–19(o) to insure compliance with the Endangered Species Act of 1973 as required by Condition "1". The Secretary disagrees that New Mexico regulation 11–19(o), as amended, insures the protection of all species in accordance with the Endangered Species Act of 1973. See finding 1 above for further discussion of this issue.

Approval of Amendments To Remove Conditions

Accordingly, conditions "c", "f", "g", and "i" are removed and 30 CFR Part 931 is amended to indicate approval of the New Mexico program amendments submitted to OSM July 9, 1982, which revise State regulations 20–17(i), 19–15(d), 20–102(a), 29–12(b), and the regulatory definition of "Unsolidated Streamlaid Deposits Holding Streams".

Additional Determinations

1. Compliance With the National Environmental Policy Act.

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Compliance With the Regulatory Flexibility Act.

The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. Compliance With Executive Order No. 12291.

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining exemption from sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions, or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB are not needed for this program amendment.

4. Concurrence of the Environmental Protection Agency.

On September 30, 1982, the Environmental Protection Agency transmitted its written concurrence on

all the amendatory provisions addressed in this notice.

List of Subjects in 30 CFR Part 931

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 931 of Title 30 is amended as set forth below.

Date: October 19, 1982.

Wm. P. Pendley,

Acting Assistant Secretary for Energy and Minerals.

PART 931—NEW MEXICO

1. 39 CFR 931.10 is revised to read as follows:

§ 931.10 State Regulatory program approval.

The New Mexico State Program as submitted on February 28, 1980, and amended and clarified on June 11, 1980, August 7, 1980, and September 10, 1980, was conditionally approved, effective December 31, 1980. Copies of the approved program together with copies of the letter of the New Mexico Energy and Minerals Department, Division of Mining and Minerals, agreeing to the conditions in 30 CFR 931.11 are available at:

(a) Energy and Minerals Department, Mining and Minerals Division, 525 Camino de los Marquez, Sante Fe, New Mexico 87501.

(b) Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue, N.W., Albuquerque, New Mexico 87102.

(c) Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1100 L Street, N.W., Washington, D.C. 20240.

§ 931.11 [Amended]

2. 30 CFR 931.11 is amended by removing and reserving paragraphs (c), (f), (g) and (i), and by amending paragraphs (b) and (l) by inserting "March 15, 1983," for "July 31, 1982," each time the latter date appears in those paragraphs.

3. 30 CFR 931 is amended by adding a new § 931.15 to read as follows:

§ 931.15 Approval of amendments to State regulatory program.

(a) The following amendment was approved effective May 27, 1982:

Procedures for Posting and Publishing Notices of Show Cause Orders dated February 19, 1982.

(b) The following amendments are approved effective October 26, 1982.

(1) New Mexico revised regulation 20-71(i) adopted July 9, 1982.

(2) New Mexico revised regulation 19-15(d) adopted July 9, 1982.

(3) New Mexico revised regulation 20-102(a) adopted July 9, 1982.

(4) New Mexico revised regulatory definition of "Unconsolidated Streamlaid Deposits Holding Streams" adopted July 9, 1982.

(5) New Mexico revised regulation 29-12(b) adopted July 9, 1982.

[FR Doc. 82-29345 Filed 10-25-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 21001-200]

Court Review of Patent and Trademark Office Decisions

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office is amending its rules of practice relating to court review of its decisions. The Federal Courts Improvement Act of 1982, Pub. L. 97-164, established the United States Court of Appeals for the Federal Circuit (CAFC), effective October 1, 1982, and transferred to this Court the jurisdiction previously vested in the U.S. Court of Customs and Patent Appeals to review Patent and Trademark Office decisions. This rulemaking action substitutes the name of the new Court where the predecessor U.S. Court of Customs and Patent Appeals is referred to in the rules, and changes Office procedures to conform to the requirements of the new Court's rules.

EFFECTIVE DATE: October 26, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph F. Nakamura by telephone at (703) 557-3525 or by mail marked to his attention and addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION:

The Rule Changes

The Patent and Trademark Office has found that the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay of effective date are not applicable because they are unnecessary. The rule changes can have no substantive impact on the rights and duties of persons subject to the rules. These changes simply conform Office practice to the agency procedures required by the "Rules of the United States Court of Appeals for the Federal Circuit." These rules have already been issued, distributed and scheduled to go into effect on October 1, 1982. They can be changed only by the Court and are binding on the Office. The substitution of the name of the new Court for the prior Court's name is a housekeeping, and not a substantive, change to conform the rules to a change made by Pub. L. 97-164.

The Federal Courts Improvement Act of 1982, Pub. L. 97-164, established the United States Court of Appeals for the Federal Circuit and transferred to this Court the jurisdiction previously vested in the U.S. Court of Customs and Patent Appeals to review Patent and Trademark Office decisions. The rules in Parts 1 and 2 of Title 37, Code of Federal Regulations, in which the U.S. Court of Customs and Patent Appeals is named are accordingly being amended by substituting the name of the new Court. The rules so amended are §§ 1.8, 1.253(e), 1.301, 1.302, 1.303, 1.304 and 2.145.

The "Rules of the United States Court of Appeals for the Federal Circuit" specify that the Commissioner, upon receipt of an appellant's notice of appeal to the Court "shall promptly transmit to the clerk of this court a certified list as described in FRAP 17(b), which shall constitute compliance with the requirement of 35 U.S.C. 143 and 15 U.S.C. 1071(a)(3) for the transmission of a certified record to the Court." Sections 1.301 and 2.145 accordingly are being amended by deleting references to the transmission of a certified transcript of record by the Office to the Court on order of and at the expense of the appellant. Reference is being made instead to the certified list required by the new Court's rules.

The rules of the new Court require all appendices to be 8½ by 11 inches in size with type matter 6½ by 9½ inches. Accordingly, the alternative smaller page size permitted by section 253(e) for copies of testimony is being eliminated. The provision for allowing twenty-five additional copies of the testimony to be filed for use if an appeal is taken is also being eliminated since the transmission of a record to the Court is not required under the new Court's rules.

In addition to the above-noted changes, housekeeping changes are being made as follows.

In § 1.8(a), a reference to §§ 3.55 and 4.23 is being deleted since these sections are being deleted effective October 1, 1982. In §§ 1.302, 1.304 and 2.145, references to the masculine gender are being amended to include the feminine.

Other Considerations

Environmental, energy, and other considerations: The rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

This rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive Order 12291, and the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

The rule change will not have a significant impact on a substantial number of small entities (Regulatory Flexibility Act). If anything, the change will reduce costs for persons, including small businesses, who appeal to the new Court from Patent and Trademark Office decisions. A Regulatory Flexibility Analysis, therefore, will not be prepared.

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291 because it does not result in: (a) An effect on the economy of $100 million or more, (b) a major increase in any costs or prices, or (c) adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete domestically or abroad with foreign-based enterprises.

This rule change will not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* since no additional recordkeeping or reporting requirements are placed upon the public.

List of Subjects in 37 CFR Parts 1 and 2

Administrative practice and procedure, Courts, Inventions and patents, Trademarks.

Amendment of Regulations

For the reasons given above, and pursuant to the authority of the Commissioner of Patents and Trademarks under 35 U.S.C. 6 and 15 U.S.C. 1123, Parts 1 and 2 of Title 37, Code of Federal Regulations, are amended as set forth below.

PART 1—RULES OF PRACTICE IN PATENT CASES

1. Section 1.8 is amended by revising paragraph (a)(1), (a)(2) and (a)(2)(viii) to read as follows:

§ 1.8 Certificate of mailing.

(a) Except in the cases enumerated below, papers and fees required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if: (1) they are addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, and deposited with the U.S. Postal Service with sufficient postage as first class mail prior to expiration of the set period, and (2) they are accompanied by a certificate stating the date of deposit. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed on or before the date indicated, the actual date of receipt of the paper or fee will be used for all other purposes. This procedure does not apply to the following:

* * * * *

(viii) The filing of a notice of election to proceed by civil action in an inter partes proceeding under 35 U.S.C. 141 or section 21(a)(1) of the Trademark Act, 15 U.S.C. 1071(a)(1), in response to another party's appeal to the Court of Appeals for the Federal Circuit.

* * * * *

2. Section 1.253 is amended by revising paragraph (e) to read as follows:

§ 1.253 Copies of the testimony.

* * * * *

(e) When the copies of the testimony are submitted in printed form, they may be produced by standard typographic printing or by any process capable of producing a clear black permanent image. All printed matter except on covers must appear in at least 11 point type on opaque, unglazed paper. Margins must be justified. Footnotes may not be printed in type smaller than 9 point. The page size shall be 8½ by 11 inches (21.8×27.9 cm.) with type matter 6½ by 9½ inches (16.5 by 24.1 cm.). The testimony shall be bound to lie flat when open.

* * * * *

3. Section 1.301 is amended by revising the section and section heading to read as follows:

§ 1.301 Appeal to U.S. Court of Appeals for the Federal Circuit.

Any applicant or any owner of a patent involved in a reexamination proceeding dissatisfied with the decision of the Board of Appeals, and any party to an interference dissatisfied with the decision of the Board of Patent Interferences, may appeal to the U.S. Court of Appeals for the Federal Circuit. The appellant must take the following steps in such an appeal: (a) In the Patent and Trademark Office give notice to the Commissioner and file the reasons of appeal (see §§ 1.302 and 1.304); (b) in the court, file a copy of the notice and reasons of appeal and pay the fee for appeal, as provided by the rules of the court. The certified list required by the rules of the Court will be transmitted to the Court by the Patent and Trademark Office.

4. Section 1.302 is amended by revising paragraph (a) to read as follows:

§ 1.302 Notice and reasons of appeal.

(a) When an appeal is taken to the U.S. Court of Appeals for the Federal Circuit, the appellant shall give notice thereof to the Commissioner, and file in the Patent and Trademark Office within the time specified in § 1.304, his or her reasons of appeal specifically set forth in writing.

* * * * *

5. Section 1.303 is amended by revising the section to read as follows:

§ 1.303 Civil action under 35 U.S.C. 145, 146, 306.

(a) Any applicant or any owner of a patent involved in a reexamination proceeding dissatisfied with the decision of the Board of Appeals, and any party dissatisfied with the decision of the Board of Patent Interferences, may, instead of appealing to the U.S. Court of Appeals for the Federal Circuit (§ 1.301), have remedy by civil action under 35 U.S.C. 145 or 146, as appropriate. Such civil action must be commenced within the time specified in § 1.304.

(b) If an applicant in an ex parte case or an owner of a patent involved in a reeexamination proceeding has taken an appeal to the U.S. Court of Appeals for the Federal Circuit, he or she thereby waives his or her right to proceed under 35 U.S.C. 145.

(c) If any adverse party to an appeal taken to the U.S. Court of Appeals for the Federal Circuit by a defeated party in an interference proceeding files notice with the Commissioner within twenty days after the filing of the defeated party's notice of appeal to the court (§ 1.302), that he or she elects to have all further proceedings conducted as provided in 35 U.S.C. 146, certified copies of such notices will be transmitted to the U.S. Court of Appeals for the Federal Circuit for such action as may be necessary. The notice of election must be served as provided in § 1.248.

6. Section 1.304 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1.304 Time for appeal or civil action.

(a) The time for filing the notice and reasons of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is sixty days from the date of the decision of the Board of Appeals or the Board of Patent Interferences. If a

request for rehearing or reconsideration, or modification of the decision, is filed within the time specified in § 1.197(b) or § 1.256(b), or within any extension of time granted thereunder, the time for filing an appeal or commencing a civil action shall expire at the end of the sixty-day period or thirty days after action on the request, whichever is later. The sixty and thirty day periods may be extended by the Commissioner upon a showing of sufficient cause.

* * * * *

(c) If a defeated party to an interference has taken an appeal to the U.S. Court of Appeals for the Federal Circuit and an adverse party has filed notice under 35 U.S.C. 141 that he or she elects to have all further proceedings conducted under 35 U.S.C. 146 (§ 1.303(c)), the time for filing a civil action thereafter is specified in 35 U.S.C. 141.

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

7. Section 2.145 is amended by revising the section to read as follows:

§ 2.145 Appeal to court and civil action.

(a) *Appeal to U.S. Court of Appeals for the Federal Circuit.* An applicant for registration, or any party to an interference, opposition, or cancellation proceeding or any party to an application to register as a concurrent user, hereinafter referred to as inter partes proceedings, who is dissatisfied with the decision of the Trademark Trial and Appeal Board and any registrant who has filed an affidavit or declaration under section 8 of the Act or who has filed an application for renewal and is dissatisfied with the decision of the Commissioner (§§ 2.165, 2.184), may appeal to the U.S. Court of Appeals for the Federal Circuit. The appellant must take the following steps in such an appeal: (1) In the Patent and Trademark Office give written notice of appeal to the Commissioner (see paragraphs (b) and (d) of this section); (2) In the court, file a copy of the notice of appeal and pay the fee for appeal, as provided by the rules of the Court. The certified list required by the rules of the Court will be transmitted to the Court by the Patent and Trademark Office.

(b) *Notice of appeal.* (1) When an appeal is taken to the U.S. Court of Appeals for the Federal Circuit, the appellant shall give notice thereof in writing to the Commissioner, which notice shall be filed in the Patent and Trademark Office, within the time specified in paragraph (d) of this section. The notice shall specify the party or parties taking the appeal and shall designate the decision or part thereof appealed from.

(2) In inter partes proceedings, the notice must be served as provided in § 2.119.

(c) *Civil action.* (1) Any person who may appeal to the U.S. Court of Appeals for the Federal Circuit (paragraph (a) of this section), may have remedy by civil action under section 21(b) of the Act. Such civil action must be commenced within the time specified in paragraph (d) of this section.

(2) If an applicant or registrant in an ex parte case has taken an appeal to the U.S. Court of Appeals for the Federal Circuit, he thereby waives his right to proceed under section 21(b) of the Act.

(3) If any adverse party to an appeal taken to the U.S. Court of Appeals for the Federal Circuit by a defeated party in an inter partes proceeding files notice with the Commissioner within twenty days after the filing of the defeated party's notice of appeal to the court (paragraph (b) of this section), that he or she elects to have all further proceedings conducted as provided in section 21(b) of the Act, certified copies of such notices will be transmitted to the U.S. Court of Appeals for the Federal Circuit for such action as may be necessary. The notice of election must be served as provided in § 2.119.

(d) *Time for appeal or civil action.* (1) The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (paragraph (b) of this section), or for commencing a civil action (paragraph (c) of this section), is sixty days from the date of the decision of the Trademark Trial and Appeal Board or the Commissioner, as the case may be. If a request for rehearing or reconsideration, or modification of the decision, is filed within the time specified in § 2.129(c) or § 2.144, or within any extension of time granted thereunder, the time for filing an appeal or commencing a civil action shall expire at the end of the sixty day period or thirty days after action on the request, whichever is later. The sixty and thirty day periods may be extended by the Commissioner upon a showing of sufficient cause.

(2) The times specified herein are calendar days. If the last day of time specified for an appeal, or commencing a civil action falls on a Saturday, Sunday or legal holiday, the time is extended to the next day which is neither a Saturday, Sunday nor a holiday.

(3) If a party to an inter partes proceeding has taken an appeal to the U.S. Court of Appeals for the Federal Circuit and an adverse party has filed notice under section 21(a)(1) of the Act that he or she elects to have all further proceedings conducted under section 21(b) of the Act, the time for filing a civil action thereafter is specified in section 21(a)(1) of the Act.

Dated: October 1, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc 82-29287 Filed 10-25-82; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL-004; A-4-FRL 2203-6]

Approval and Promulgation of Implementation Plans; Florida: Bubble Action for General Portland Inc. in Tampa, Florida

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today announcing approval of the State Implementation Plan (SIP) revision submitted by the State of Florida on August 11, 1981, which contains an alternative emission reduction plan (bubble) for the General Portland Inc. facility located in Tampa, Florida. This bubble application is fully approvable under EPA's Emission Trading Policy Statement (47 FR 15077), which allows the use of source shutdowns in bubbles as well as bubbling of sources located in nonattainment areas lacking a demonstration of attainment for secondary standards. General Portland is located in an area of Tampa, Florida which has been designated nonattainment of the secondary total suspended particulates (TSP). EPA proposed to approve a control strategy for this area in the **Federal Register** on September 24, 1982 [47 FR 42124].

Approval of this bubble plan will allow General Portland to increase allowable particulate emission rates at one kiln and at one clinker cooler. The increased particulate emissions will be offset by a complete and permanent shutdown of two kilns and two clinker coolers.

EPA is also announcing approval of the portion of Florida's nonattainment SIP which limits particulate emissions from portland cement plants as reasonably available control technology (RACT) for the General Portland facility.

Approval of these revisions was proposed in the May 21, 1982, **Federal**

Register, (47 FR 22122) and no adverse comments were received.

DATE: These actions are effective November 26, 1982.

ADDRESSES: Copies of the materials submitted by Florida may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Air Management Branch, Environmental Protection Agency, Region IV, 345 Courtland Street NE. Atlanta, Georgia 30365

Florida Department of Environmental Regulations, Bureau of Air Quality Management, Twin Towers Office Building, 2600 Blairstone Road, Tallahassee, Florida 32301

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington D.C. 20005

FOR FURTHER INFORMATION CONTACT: Ms. Denise W. Pack, EPA Region IV, at the above listed address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: On April 7, 1981, the Florida Department of Environmental Regulation (DER) adopted the current emission limitations for the General Portland Inc. as part of Florida's revised SIP for nonattainment areas. On August 11, 1981, Florida submitted an alternative emission control plan (bubble) for the General Portland facility. The bubble involves particulate emissions from Kilns Nos. 4, 5, 6, and Clinker Coolers Nos. 4, 5, and 6. Each of these emissions points has been permitted according to the emission limitations contained in the April 7, 1981, SIP. EPA is today approving these emission limitations as Reasonably Available Control Technology (RACT).

The bubble being approved for General Portland allows the No. 6 Kiln and the adjacent Clinker Cooler to operate at an emission limit higher than that permitted under the RACT emission limitations. Operations at the Nos. 4 and 5 Kilns and Clinker Coolers will be permanently discontinued. The rules adopted by Florida specify that General Portland shall notify the Florida DER 14 days prior to the cessation of operations to afford the DER an opportunity to have representatives present to confirm the closure.

The proposal notice stated that the Company will decrease the amount of fugitive emission at the facility by ceasing to operate the supplement storage and transfer systems for Nos. 4 and 5 Kilns and Clinker Cooler. This is not true. Instead the company will decrease the amount of fugitive emissions by ceasing the storage and transfer of clinkers produced from Nos. 4 and 5 Kilns. Since General Portland is not seeking credit and no credit is being given for the elimination of fugitive particulates generated by the storage and transfer of these materials, this error will have no impact of EPA's decision to approve this SIP revision.

The General Portland bubble will increase the allowable particulate emission rate from Kiln No. 6 from the current emission limit (RACT) of 74 pounds per hour to 95 pounds per hour, determined by EPA Reference Method 5.

An additional test will also be required using EPA Reference Method 17; the emission limit using this test is 40 pounds per hour. The SIP revision requires EPA Reference Method 5 for both kilns and coolers. The allowable particulate emission rate from Clinker Cooler No. 6 will increase from 20 pounds per hour to 45 pounds per hour. These increases in the allowable emission rates will be offset by discontinuing the use of Kilns Nos. 4 and 5, for which the current emission limit is 50 pounds per hour, and by discontinuing the use of Clinker Cooler Nos. 4 and 5, for which the current emission limit is 7.5 pounds per hour each. The ambient air quality impact of the revised emission limitations was evaluated using the CRSTER model.

In sum, air quality improvements are projected as a result of the changes. The use of this alternative set of emission limitations will result in a net decrease in emissions of particulates as compared to the current limitations. Also, the company will cease the storage and transfer of clinker produced from the Nos. 4 and 5 Kilns. General Portland is not seeking credit for eliminating the fugitive particulates generated by the storage and transfer of this material.

Action

Based on the foregoing, EPA hereby approves (1) the emission limits adopted by Florida's DER on April 7, 1981 as RACT for the General Portland facility, and (2) the General Portland bubble.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

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

Incorporation by reference of the State Implementation Plan for the State of Florida was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

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

(Secs. 110 and 172, Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: October 18, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart K—Florida

In § 52.520 paragraph (c) is amended by adding subparagraph (37) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(37) RACT emission limits and bubble provision for General Portland Inc., Tampa (FAC 17-2.650(2)(c)1.c.), submitted by the Florida Department of Environmental Regulation on August 11, 1981.

[FR Doc. 82-29351 Filled 10-25-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 62

[A-9-FRL 2216-7]

Plans for the Control of Designated Pollutants From Existing Facilities; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On September 25, 1979 and November 4, 1981, rules for the control of total reduced sulfur emissions from existing kraft pulp mills were forwarded to EPA by the California Air Resources Board. EPA reviewed the submitted rules with respect to Section 11(d) of the Clean Air Act and determined that they should be approved.

EFFECTIVE DATE: This action is effective December 27, 1982.

ADDRESS: A copy of the California State Plan is located at the Region 9 Office and the following locations: Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street, SW. Room 2404, Washington, D.C. 20460; and California

Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Acting Director, Air Management Division, Region 9, Environmental Protection Agency, 215 Fremont Street San Francisco, CA 94105, Attn: Douglas Grano (415) 974-7641

SUPPLEMENTARY INFORMATION:

Background

In accordance with Section 111 of the Clean Air Act, "Standards of Performance for New Stationary Sources," EPA has promulgated standards of performance for criteria (pollutants for which National Ambient Air Quality Standards have been published) and non-criteria (or designated) pollutants. These standards apply to both existing and new sources.

Paragraph (d) of Section 111 requires states to develop plans for the control of emissions of designated pollutants from existing sources. The requirements for such plans are set forth in Subpart B of 40 CFR Part 60.

Designated pollutants which may contribute to the endangerment of public health are called "health related pollutants" while those that do not are called "welfare related pollutants." This distinction determines the closeness with which the states must follow the Federal guidelines in developing their plans. While states have limited flexibility in developing plans for the control of health related pollutants, greater flexibility is allowed in the control of welfare related pollutants. EPA has classified total reduced sulfur as a welfare related pollutant.

Subpart B states that EPA will publish a guidelines document for each source category for which a state plan is required. Once a guideline document is published, and a notice of its availability published in the **Federal Register**, states have nine months to adopt and submit a plan for the control of emissions of the designated pollutant from existing sources. The guideline document for the control of total reduced sulfur (TRS) from existing kraft pulp mills was published in March 1979.

On May 22, 1979 (44 FR 29828), EPA announced the availability of a final guideline document for the control of TRS from existing kraft pulp mills. The notice initiated the requirement that states submit plans on or before February 22, 1980.

Discussion

The California Air Resources Board submitted the following rules on the indicated dates to meet certain requirements of Section 111(d) of the Clean Air Act:

- Bay Area Air Quality Management District Rule 1, Regulation 12—Kraft Pulp Mills, submitted 9-25-79 and amended 9-5-80.
- Humboldt County Air Pollution Control District Regulation 1, Rule 130—Definitions; Rule 240—Permit to operate; and Rule 450—Sulfide Emissions Standard for Kraft Pulp Mills; submitted 9-25-79 and amended 11-4-81.
- Shasta County Air Pollution Control District Rule 3:2—Specific Air Contaminants, submitted 9-25-79 and amended 11-4-81.

The plan also consists of several state certified letters including emission inventories, and summary compliance schedules for the requirements set forth in 40 CFR 60.23 through 60.26.

Under Section 111(d) of the Clean Air Act, and 40 CFR Part 60, the Administrator is required to approve or disapprove this Plan. The Plan submittal has been evaluated and found to be in accordance with EPA policy and 40 CFR Part 60. EPA's detailed evaluation of the submitted plan is available at the EPA Library in Washington, D.C. and the Region 9 Office.

EPA Actions

It is the purpose of this notice to approve the California Plan. EPA's approval is being done without prior proposal because the Plan is not controversial. The public should be advised that this approval action will be effective 60 days from the date of this notice. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will indefinitely postpone the effective date, modify the final action to a proposal action, and establish a comment period.

Regulatory Process

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

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

Under the Clean Air Act any petitions for judicial review of this notice must be filed in the United States Court of Appeals for the appropriate circuit by December 27, 1982. This action may not be challenged later in proceedings to enforce its requirements.

(Sec. 111 of the Clean Air Act, as amended (42 U.S.C. 7411))

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Sulfur, Administrative practice and procedure, Intergovernmental relations, Reporting requirements.

Dated: October 18, 1982.

Anne M. Gorsuch,

Administrator.

PART 62—[AMENDED]

Subpart F of Part 62 of Title 40 is amended as follows:

Subpart F—Plan for the Control of Designated Pollutants From Existing Facilities [§ 111(d) Plan]

1. In § 62.1100, paragraphs (b)(3) and (c)(3) are added to read as follows:

§ 62.1100 Identification of plan.

* * * * *

(b) * * *

(3) Control of total reduced sulfur (TRS) emissions from existing kraft pulping mills submitted as follows:

(i) 9-25-79; submittal of existing rules; (*a*) Bay Area Air Quality Management District (AQMD) Rule 1, Regulation 12—Kraft Pulp Mills

(*b*) Humboldt County Air Pollution Control District Regulation 1; Rule 130—Definitions, Rule 240—Permit to Operate, Rule 450—Sulfide Emissions from Kraft Pulp Mills

(*c*) Shasta County Air Pollution Control District Rule 3:2—Specific Air Contaminants

(ii) 3-21-80; Clarification of Bay Area Rule 1, Regulation 12—Kraft Pulp Mills

(iii) 4-7-80; Summary of district rules and State laws that meet the requirements of 40 CFR, Parts 60.23-60.26 for Designated Facilities in general

(iv) 5-29-80; revision of Bay Area AQMD Rule 1, Regulation 12—Kraft Pulp Mills

(v) 9-5-80; Evidence of public hearing and annual report schedule defined for Bay Area Rule 1, Regulation 12—Kraft Pulp Mills

(vi) 11-4-81; (*a*) Humboldt County APCD Rules 130—Definitions; 240—Permit to Operate; and 450—Kraft Pulp Mills amended (7-28-81)

(*b*) Shasta County APCD Rule 3:2—Specific Contaminants amended (8-4-81)

(*c*) A summary of compliance of all districts with the requirements set forth in 40 CFR 60.23 through 60.26

(*d*) A list of witnesses appearing at Humboldt and Shasta Counties public hearings and a summary of testimonies Statewide emissions

inventory of all TRS sources in the State

(c) * * *

(3) Existing Kraft pulp mills

2. A new center heading and § 62.1104 are added and §§ 62.1105 through 62.1123 are reserved to read as follows:

Total Reduced Sulphur Emissions From Existing Kraft Pulp Mills

§ 62.1104 Identification of sources.

The plan applies to existing facilities at the following Kraft pulp mills:

(a) Louisiana Pacific, Antioch, Contra Costa County Pulp Mill

(b) Louisiana Pacific Corp., Samoa Complex

(c) Crown Simpson Pulp Company, Fairhaven

(d) Simpson Paper Company, Shasta County Pulp Mill

§ 62.1105–62.1123 [Reserved]

[FR Doc. 82-29256 Filed 10-25-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF ENERGY

Office of the Secretary

41 CFR Part 9-23

Amendments to the DOE Procurement Regulations; Correction

AGENCY: Energy Department.

ACTION: Final rule; Correction.

SUMMARY: This document corrects a final rule amending the DOE Procurement Regulations published at 47 FR 28924 on July 2, 1982.

ADDRESS: Comments, if any, should be addressed to the Department of Energy, Procurement Policy Branch, MA931.1, Forrestal Building, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Richard B. Langston, Procurement Policy Branch, Procurement and Assistance Management Directorate, Department of Energy, (202) 252-8188.

Issued in Washington, D.C. October 19, 1982.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

The following corrections are made.

§ 9-23.108 [Corrected]

1. On page 28929, at § 9-23.108, place an "e" before the paragraph which begins "When approval of the contractor's procurement system * * *."

2. On page 28929, at § 9-23.108, remove "(d) and" from the eleventh line of paragraph (g). As corrected, the eleventh line will read: "pursuant to paragraph (e) of"

[FR Doc. 82-29291 Filed 10-25-82; 8:45 am]

BILLING CODE 6450-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

[FPMR Amendment G-58]

Transportation Documentation and Audit; Passenger Transportation Services Furnished for the Account of the United States; Unused Ticket Refund Procedures

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation amends the policy and procedures regarding refunds from carriers for exchanged tickets (traveler exchange of an original ticket for one of lesser value) and the redemption of unused tickets (tickets that have not been exchanged and on which no portion of travel has been performed). Compliance with these revised procedures by Government agencies and the carrier industry will expedite the recovery of outstanding refunds due the U.S. Government.

EFFECTIVE DATE: October 26, 1982.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures and Claims Branch, Office of Transportation Audits (202-275-0664).

SUPPLEMENTARY INFORMATION: A proposed rulemaking was published in the **Federal Register** of February 2, 1982 (47 FR 4707), inviting comments for 30 days ending March 4, 1982. The period for commenting on the proposed rule was extended until April 2, 1982, in the **Federal Register** (47 FR 11296), March 16, 1982. Section 101-41.210-5a of the proposed rulemaking required carriers to refund the value of unused tickets that have expired if an SF 1170 has not previously been issued. Section 101-41.210-5b provided for payment to the carrier if the expired ticket was subsequently used or a second refund made after issuance of an SF 1170. Since the effectiveness of these two program changes would rely largely upon the revenue accounting systems of the carrier industry, the General Services Administration has elected to withdraw § 101-41.210-5a and § 101-41.210-5b of the proposed rule for further study.

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. In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final rule have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained

List of Subjects in 41 CFR Part 101-41

Air carriers, Accounting, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation.

Discussion of Major Comments

All comments received through the deadline date were considered in the final determination. There were 14 responses—7 from airlines, 5 from Government agencies and 2 from carrier associations. Five categories of relevant comments were received: (a) those supporting major portions of the proposed rule, (b) those opposing major portions of the proposed rule, (c) administrative comments, (d) comments regarding agency recovery of carrier refunds sent directly to the General Services Administration (GSA), and (e) comments opposing that portion of the proposed rule requiring carriers to refund unused tickets without first receiving an SF 1170.

Inasmuch as § 101-41.210-5a and § 101-41.210-5b have been withdrawn pending further review and investigation, we have determined that comments in category (e) are beyond the scope of this current proposal. The following summarizes the remaining relevant comments and recommendations plus our determinations and actions taken.

a. Supporting comments. Two carriers and one carrier association expressed a willingness to comply with our proposal for fare adjustment refunds within 90 days with no SF 1170 required and totally unused ticket refunds within 120

days from date of SF 1170. The carrier association also proposed that SF 1170's be eliminated when carriers have issued refund receipts for unused tickets and that refunds be sent directly to GSA unless the carrier could identify a proper agency mailing address. Two airlines suggested that agency submission of SF 1170's be eliminated altogether and all carrier refunds be sent directly to GSA. One carrier remarked that Federal agencies have been lax in submitting SF 1170 refund requests.

Determinations

Our proposed rule responds to assertions made by air carriers that they hold bonafide exchanged ticket refunds which cannot be promptly returned to Government agencies because the airlines have not received a Government refund request form, the SF 1170. The extent to which this contributes to uncollected refunds due the Government is unclear since instances of unused Government tickets may occur more frequently than do Government ticket exchanges. Consequently, the proposed regulation changes are intended to expedite the collection of exchanged ticket refunds without disrupting the Government refund program. Under current payment and accounting procedures, discontinuance of the SF 1170 would increase the possibility of refunds being issued to Government travelers instead of their agencies; make it more difficult for agencies to monitor carrier refunds; and would divert a large portion of carrier refunds away from the agencies and to GSA for necessary accounting and disposition. For these reasons, we are not, at this time, prepared to reduce the use of SF 1170's beyond that of our original proposal.

b. Opposing comments. Two Federal agencies argued that the proposed changes were not needed because the present system works well. One of them also indicated that current refund procedures are necessary because carriers will not make refunds without an SF 1170, and that carriers sometimes do not provide refund application forms—an essential document if use of SF 1170's is to be curtailed. The agency believed a dual system (use of SF 1170's for some types of refunds and elimination of the form for others) would only confuse and frustrate agency collection efforts, and that the proposed rule would not reduce paperwork for agencies since they would still be required to prepare SF 1170's to report refunds to GSA. One office was concerned that our proposal weakens the agencies' ability to control the refund process since without the SF 1170 there would be no way to systematically track agency ticket exchange claims against the carriers. This respondent suggested that we leave refund procedures unchanged until a more comprehensive solution can be developed, perhaps a system of ticket exchange refunds at the airline counter.

Determinations

GSA has determined that a substantial problem does exist in recovering refunds from carriers for unused transportation. For example, from April 1, 1982, through May 7, 1982, 4 airlines forwarded 46 individual refunds representing $4,000 to GSA because one of the above agencies which expressed satisfaction with the status quo apparently failed to file SF 1170 claims. This appears to be typical of problems at many Government offices. During the last 18 months, carriers have sent a large number of refunds to GSA allegedly because agencies have not presented SF 1170's and the carriers could not identify which agencies to refund. We have subsequently traced a portion of these unclaimed refunds to 17 Government agencies including every cabinet department. Timely refund of monies due the Government is a shared responsibility and we have found instances where carriers have failed to make refunds when agencies do present SF 1170's. We are also aware that carriers, from time to time, fail to issue refund applications or lose them. This underscores the need for the agency monitoring provisions of proposed § 101–41.210–1a. To help minimize the administrative burden this entails, our final rule requires only that a copy of the carrier refund application and any other pertinent information be sent to GSA rather than a specially prepared SF 1170. This rule change is not a final solution to the refund problem and a more comprehensive solution would be preferable. It is hoped, however, that these changes will expedite the Government's recovery of one type of carrier refund until such time as a more permanent solution can be developed.

c. Administrative comments. Several respondents noted that "bill charges to" information does not appear on the carrier's ticket as purported in proposed § 101–41.210–1 making it difficult for carriers to refund to agencies. An agency and a carrier association noted that GSA has several times altered the deadline for delivery of carrier refunds to agencies and that 180 days would be more practical than the 120 day deadline contained in the current proposal. One respondent also noted that the proposed rule specifies different office address codes and different deadlines for reporting to GSA carrier failure to refund monies for exchanged and unused tickets. It was suggested that these be standardized.

Determinations

Section 101–41.210–1 has been corrected by substituting the term "GTR" for the word "ticket" which appears after "bill charges to." For the purpose of helping to ensure that exchanged and downgraded ticket refunds are returned directly to the GTR issuing agencies, § 101–41.210–1 has been further revised to require that agencies provide "bill charges to" information to travelers. Each traveler, in turn, will be expected to make this information available to the carrier in the event of a ticket exchange or downgrade. The recommendation that refund deadlines be standardized at 180 days has not been adopted. On May 21, 1982, the President signed into law the Prompt Payment Act (Pub. L. 97–177) which requires Federal agencies to pay for services within 30 days. Since the Prompt Payment Act will expedite payment to carriers, the deadline for refunding the value of exchanged and downgraded tickets has been reduced to 60 days (§ 101–41.210–1). Consequently, the 120 day deadline for reporting carrier failure to refund the value of exchanged tickets (§ 101–41.210–1) and unused tickets (§ 101–41.210–5) has been reduced to 90 days. The requirement to report refunded monies to GSA (§ 101–41.210–1a(c)) has been deleted. GSA office codes have been standardized.

d. Agency recovery of carrier refunds sent directly to GSA. The four responses from Government agencies expressed concern with § 101–41.210–5c. Most indicated they did not have access to carrier check number, date, and amount of the check, making it difficult to recover carrier refunds sent directly to GSA. One agency suggested that GSA should require carriers to make this information available.

Determinations

In keeping with our intention of allowing Federal agencies a full year to recover refunds sent to GSA, we have increased the time allowed for agency action from 180 to 300 days.

No proposal has been made to change existing recovery procedures. The present § 101–41.210–5a(b) and its contents has simply been redesignated as § 101–41.210–5c. Furthermore, airlines do provide check number, date, and dollar amount of refund checks upon request. In the event this information is not readily available from the carrier, agencies may review GSA's accounting

records to identify refunds due. Several agencies are now doing this. Contact Mr. Manus Gallagher (BWCA) at FTS 8-275-5061, commercial 202-275-5061 to make arrangements. The large number of transportation accounts within the Federal Government and GSA's limited resources make it impracticable for GSA to research and redistribute refunds to individual Government activities.

Title 41, Part 101-41 of the Code of Federal Regulations is amended as follows:

PART 101-41—TRANSPORTATION DOCUMENTATION AND AUDIT

1. The table of contents for Part 101-41 is amended by revising or adding the following 11 entries:

Sec.
101-41.210 Unused ticket refund procedures.
101-41.210-1 Ticket exchanges.
101-41.210-1a Agency monitoring and processing of exchanged ticket refunds.
101-41.210-2 SF 1170, Redemption of unused tickets (tickets that have not been exchanged and on which all or some portion of travel remains unperformed).
101-41.210-3 Agency processing of SF 1170.
101-41.210-3a Carrier processing of SF 1170.
101-41.210-4 Agency processing of SF 1170 refunds.
101-41.210-5 Report of carrier failure to make refund on SF 1170 demands.
101-41.210-5a [Reserved]
101-41.210-5b [Reserved]
101-41.210-5c Agency recovery of carrier refunds sent directly to GSA.

Subpart 101-41.2—Passenger Transportation Services Furnished for the Account of the United States

2. Subpart 101-41.2 is amended as follows:

Sections 101-41.210, 101-41.210-1, 101-41.210-2, 101-41.210-3, 101-41.210-4, and 101-41.210-5 are revised; §§ 101-41.210-1a, 101-41.210-3a, 101-41.210-5c are added; and §§ 101-41.210-5a and 101-41.210-5b are added and reserved. The text of the revised and added sections is set forth below.

§ 101-41.210 Unused ticket refund procedures.

Agencies shall not revise carrier bills or require carriers to rebill items except as provided in § 101-41.210-6, to recover from carriers the value of unused or unfurnished transportation.

§ 101-41.210-1 Ticket exchanges.

Agencies shall not submit an SF 1170 to the carrier to receive a refund for the unused value of an exchanged ticket (traveler exchange of an original ticket for one of lesser value) or returned ticket when the carrier has issued a receipt or a ticket refund application. Carriers are required to make refunds to the "bill charges to" office indicated on the GTR within 60 days from date of ticket exchange. All agencies shall provide travelers with a "bill charges to" address by attaching a copy of the GTR or some other document containing this information to either the ticket or travel authorization. If carriers cannot identify the issuing agency, refunds will be sent directly to GSA (BWCA), Washington, D.C. 20405. Any refunds sent directly to GSA will be subject to the following procedures:

(a) Carriers must include the GTR number, the ticket number, the amount being refunded, and any other information pertinent to the refund.

(b) Agencies shall make written inquiry directly to the carrier to obtain the above information for the purpose of recovering the refund from GSA.

§ 101-41.210-1a Agency monitoring and processing of exhanged ticket refunds.

Agencies awaiting exchanged or returned ticket carrier refunds shall:

(a) Obtain carrier refund applications from travelers for accounting purposes.

(b) Record and deposit refunds in conformity with agency fiscal procedures.

(c) Forward carrier refund applications and any other pertinent information to GSA (BWAB), Washington, D.C. 20405, if refund has not been received within 90 days of date of ticket exchange or return.

§ 101-41.210-2 SF 1170, Redemption of unused tickets (tickets that have not been exchanged and on which all or some portion of travel remains unperformed).

Agencies shall make demand for unused tickets on the carriers through the use of SF 1170. A separate SF 1170 must be used for each GTR, though more than one ticket or adjustment transaction may be related to that GTR. Each ticket must be listed on the redemption form.

§ 101-41.210-3 Agency processing of SF 1170.

Timely processing of SF 1170 is essential to facilitate prompt refunds from carriers. Agencies processing SF 1170 shall ensure that:

(a) All copies clearly show the required details;

(b) The orginal and the duplicate copy, together with pertinent unused tickets, are promptly forwarded to the carrier; and

(c) All other copies are retained by the agency for accounting control.

§ 101-41.210-3a Carrier processing of SF 1170.

Each carrier shall promptly refund monies to adjust items listed on an SF 1170, whether or not the related GTR has been submitted or paid. The carrier shall indicate on the original SF 1170 the amount credited to each ticket and the total amount being refunded, and shall return the original with its refund to the agency. A refund that is inconsistent with the information on the SF 1170 shall be explained or computed on the SF 1170 or in an attached letter. A carrier declining to refund shall furnish an explanation on the original SF 1170. If a carrier is unable to determine which agency submitted the SF 1170, the payment and refund information shall be sent directly to the General Services Administration (BWCA). Any refunds sent directly to GSA will be subject to the following procedures:

(a) Carriers must include the GTR number, the ticket number, the amount being refunded, and any other information pertinent to the refund.

(b) Agencies shall make written inquiry directly to the carrier to obtain the above information for the purpose of recovering the refund from GSA.

§ 101-41.210-4 Agency processing of SF 1170 refunds.

Upon return of the original SF 1170 with the refund, the agency shall record and deposit the refund in conformity with its fiscal procedures and within 30 days of receipt thereof forward the original SF 1170, together with any advice from the carrier regarding the basis of the refund, to the General Services Administration (BWAB).

§ 101-41.210-5 Report of carrier failure to make refund on SF 1170 demands.

If, within 90 days from the date of issuance of SF 1170, the carrier has failed to make refund for unused transportation or to furnish satisfactory explanation as to why no refund is due, the agency shall transmit the triplicate copy of the SF 1170 and all related correspondence to the General Services Administration (BWAB), for appropriate action.

§ 101-41.210-5a [Reserved]

§ 101-41.201-5b [Reserved]

§ 101-41.210-5c Agency recovery of carrier refunds sent directly to GSA.

To recover carrier refunds sent directly to GSA (BWCA), agencies must forward either an SF 1080, Voucher for Transfer Between Appropriations and/or Funds, or SF 1081, Voucher and Schedule of Withdrawals and Credits, to

the General Services Administration (BWCA). Included on these forms must be the name of the carrier, carrier check number, date, and amount of check (obtained from carrier), as well as the GTR number and the appropriation number to be credited. Agency refund requests should be sent promptly to GSA (BWCA). Refunds from carriers which are not identified and claimed by agencies within 300 days after receipt by GSA (BWCA) will be returned to the U.S. Treasury as miscellaneous receipts.

(31 U.S.C. 244 and Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: September 27, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-29354 Filed 10-25-82; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 442

Medicare and Medicaid; Miscellaneous Amendments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rules with comment period.

SUMMARY: These regulations modify the rules pertaining to compliance with a Life Safety Code, participation of home health agencies (HHA's) in Medicare, and establishment and review of plans of treatment for home health services and outpatient speech pathology services.

The changes are necessary to implement several provisions of the Omnibus Reconciliation Act of 1980.

The intent of the statutory amendments is (1) to eliminate outdated Life Safety Code requirements imposed on skilled nursing facilities (SNFs); (2) to make it easier for providers of outpatient speech patholoy (OSP) services to meet the plan of treatment requirement; (3) to expand the sources of home health services and foster competition; (4) to make it easier for HHAs to meet certification and plan of treatment requirements, while guarding against conflict of interest in the performance of those functions.

The amended regulations extend the fire safety code provisions to all hospitals and SNFs under Medicaid as well as Medicare, and to intermediate care facilities (ICFs) under Medicaid. Our purpose is to keep Medicaid rules consistent with the Medicare rules in this area.

DATES: Effective Dates:

A. With one exception (see B. below), these rules are made effective on the statutory effective dates, as follows—

1. The revisions to fire safety (§§ 405.1022, 405.1134, 442.321, 442.322, 442.323, 442.507, 442.508, and 442.509) are effective as of December 5, 1980.

2. The changes that permit a speech pathologist to establish a plan of treatment for OSP services (§ 405.1717(b)), and permit a doctor of podiatric medicine to certify need for home health services and to establish and review a plan of treatment for those services (§ 405.1633(c)) are effective as of January 1, 1981.

3. The regulations that (1) remove the requirement that home health services be needed for a condition for which inpatient care was received (§ 405.1633(a)(2)); and (2) make it possible for proprietary HHAs to participate in Medicare (§§405.1220 and 405.1221) are effective as of July 1, 1981.

B. For reasons expalined under **"SUPPLEMENTARY INFORMATION"**, the rules that prohibit certification of need for home health services and establishment and review of plans of treatment by physicians who have significant interest in, or relationship with, an HHA (§ 405.1633(d)) are effective November 26, 1982. The changes to §§ 405.170, 405.250, 405.1633 (a)(1) and (b), and 405.1634 are effective on December 27, 1982, because they are required by the changes to § 405.1633(d).

Comment Date: Although these are final rules we will consider any comments mailed by December 27, 1982.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

In commenting, please refer to BPP-197-FC.

If you prefer you may deliver your comments to Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise, 6325 Security Boulevard, Baltimore, Md. 21207.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication in Room 309-G of the Department's office at 200 Independence Ave., SW., Washington, D.C. 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: For home health regulations (participation of proprietary HHAs and use of podiatrists), and outpatient speech pathology regulations: Stefan Miller, (301) 594-9741.

For limitations on functions that may be performed by a physician who has a significant interest in a home health agency: Raymond T. Johnson, (301) 594-9370.

For fire safety regulations: Mayer D. Zimmerman, (301) 594-1814.

SUPPLEMENTARY INFORMATION: These regulations are based on provisions of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499), enacted December 5, 1980, as discussed below:

Fire Safety

Section 915 of Pub. L. 96-499 amended section 1861(j)(13) of the Act to—

- Authorize the Secretary to specify in regulations which edition of the Life Safety Code (the Code) of the National Fire Protection Association (NFPA) must be met by skilled nursing facilities (SNFs); and
- To provide that any SNF which met the requirements of the 1967 or 1973 edition (or a State fire safety code approved by the Secretary) on the day before enactment of Pub. L. 96-499 be considered in compliance with the amended requirement for as long as it maintains the compliance it had on that date (December 4, 1980).

Fire safety requirements apply to all the institutions that participate in Medicare (hospitals and SNFs) and Medicaid (hospitals, SNFs, and ICFs). For Medicare, those requirements are set forth in the conditions of participation for hospitals and SNFs (Subparts J and K of 42 CFR Part 405). For Medicaid, hospitals and SNFs are required to meet the Medicare conditions of participation, and requirements for ICFs are contained in standards for payments to SNFs and ICFs (42 CFR Part 442).

Although the statutory amendment directly affects only the Medicare definition of a SNF, we are extending the provision to all institutions that participate in both programs. This will ensure greater consistency and multiply the benefits to be derived from the greater flexibility that the 1981 edition of the Code provides.

These revised regulations provide flexibility for all three types of institutions under both programs and minimize costs. They specify the 1981 edition of the Code, which offers more options for compliance with specific requirements and includes the Fire Safety Evaluation System (FSES), which is considered a less costly method of

meeting requirements with no reduction in safety. They also provide that an institution may elect to continue to comply on the basis of a previous edition and thus not incur any expenses that might be required to shift to compliance with the 1981 edition.

Specifically—

• As required by the statutory amendment, as SNF will be condidered to be in compliance with the new fire safety requirement if it was in compliance with the 1967 or 1973 edition of the Code on the day before the law was enacted (December 4, 1980).

• In addition, a SNF, a hospital, an ICF, or an ICF/MR will be considered to be in compliance with the new fire safety requirements if it is in compliance with the 1967 or 1973 edition of the Code (as appropriate) 30 days after publication of these regulations.

The extension to other facilities is consistent with Congressional intent that a facility in compliance with an earlier edition of the Code not be required to incur additional expenditures to comply with a later edition.

The inclusion of a later date is necessary because of the time elapsed since the statutory amendment was enacted. Facilities built since December, 1980 will thus receive the protection intended by Congress when it enacted section 915 of Pub. L. 96–499. It should be noted that the earlier editions of the Code provide the same degree of safety as the 1981 edition. The provisions for accepting continued compliance with an earlier edition thus relieve facilities of the need for additional expenditures without any adverse effect on patient safety. We have made the following changes in the indicated sections of the regulations:

1. To specify the 1981 edition of the Code and to provide that a facility will be considered as meeting the fire safety requirements if the facility—

• Is a SNF that complied with an earlier edition of the Code on December 4, 1980; or

• Is a SNF, hospital, ICF, or ICF/MR that so complies on the 30th day after publication of these regulations: § 405.1022 (hospitals), § 405.1134 (SNFs) § 405.321(ICFs), § 442.322 (ICFs), § 442.507 (ICFs/MR), § 442.508 (ICFs/MR)

2. To delete references to specific standards for medical gasses and inhalation anesthesia or treatment in hospitals because those standards are specified in, and different for, each edition of the Code: § 405.1022(b).

3. To update the list of the types of construction in which blind or nonambulatory individuals may be housed above the street level floor, since the 1981 Code permits this in noncombustible construction or, under FSES, in sprinklered combustible construction: § 405.1134(a) (SNFs), § 442.323(b) (ICFs), § 442.509(b) (ICFs/MR).

Outpatient Speech Pathology (OSP)

Section 944(a) of Pub. L. 96–499 amended section 1835(a)(2)(D)(ii) of the Act to provide that a plan of treatment for OSP services may be established either by the physician or by the speech pathologist who furnishes those services. Certification of need for OSP services and periodic review of the plan must still be performed by the physician. The change in the law reflects the fact that, in actual practice physicians generally do not specify in detail the services needed, because speech pathology involves highly specialized knowledge and training.

In the conditions of participation for outpatient physical therapy and speech pathology, we have amended § 405.1717(b)—Plan of Care, to specify that a speech pathologist may establish the plan of treatment for speech pathology services, but that plan, like all others, must be reviewed by the physician.

Home Health Agency (HHA) Amendments

Section 930(n)(2) of Pub. L. 96–499 amended section 1861(o) of the Act by deleting the language that excluded, from the HHA definition, any proprietary (i.e., for profit) organization that was not licensed under State law.

Section 951 of Pub. L. 96–499 amended section 1861(r)(3) of the Act to provide that a doctor of podiatric medicine may certify need for home health services and establish and review a plan of treatment for those services if the performance of those functions is consistent with the policies of the HHA and the functions he or she is legally authorized to perform.

Section 930(e) of Pub. L. 96–499 amended sections 1814(a) and 1835(a) of the Act to require the Secretary to issue regulations (applicable to services to be furnished by HHAs that are not governmental agencies) that prohibit certification of need for home health services, or establishment and review of a plan of treatment for those services, by a physician who has a significant ownership interest in, or a significant financial or contractual relationship with, the HHA.

Under previous law and regulations a proprietary HHA was eligible to participate in Medicare only if it was located in a State that licensed HHAs; and was required to furnish all services directly, rather than through arrangements with other entities. In addition, only a doctor of medicine or osteopathy could certify need for home health services and establish and review a plan of treatment for those services; and doctors of medicine or osteopathy could certify need for service and establish and review plan of treatment even if they had a significant interest in, or relationship with, the HHA.

As a result of the statutory amendments, it will be easier for Medicare beneficiaries to obtain home health services in the 24 States that do not license HHAs, and HHAs will be allowed to provide part of their services through arrangements with other entities. HHAs will also have the option, where permitted by State law, of using a podiatrist to certify and recertify need for home health services and to establish and review a plan of treatment for those services. However, HHAs will no longer be able to use physicians who have a significant interest in the entity to certify need for home health services or establish and review plans of treatment for those services.

In the conditions of participation for HHAs, we have amended §§ 405.1220 and 405.1221 to delete the language that excluded proprietary HHA not licensed as such under State law and that required proprietary HHAs to furnish all services directly, through their own employees.

We have amended § 405.1633 to specify that certification of need for home health services *may* be performed by a doctor of podiatric medicine and may *not* be performed by any physician who has a significant ownership interest in, or a significant financial or contractual relationship with, the HHA. (We have also made conforming technical changes in § 405.170, which specifies conditions for payment for home health services.)

A physician would be considered to have a significant ownership interest if he or she owned 5% or more of the HHA's assets or was an officer, director, or partner in the HHA. Significant contractual relationship is defined as a relationship involving business transactions that amount to $25,000 or 5% of the HHA's operating expenses for the year, whichever is less. These definitions are based on the definitions that establish criteria for requiring disclosure of ownership and control information under the program integrity regulations (§ 420.201).

These rules are made effective 30 days after publication (rather than on the statutory effective date) because

home health agencies and intermediaries and carriers could not apply the prohibitions until we established the criteria and defined the terms.

Waiver of Proposed Rule Making

The changes made by these regulations are based on statutory amendments that spell out the requirements or clearly reflect what Congress intended the content of the regulations to be. The changes eliminate outdated fire safety requirements, permit speech pathologists to establish a plan of treatment for OSP services, increase the potential sources of home health services (and thus foster competition among them), and make it possible for podiatrists to certify need for home health services and to establish and review treatment plans for those services, while guarding against possible conflict of interest in the performance of those functions by any physician.

We find that there is good cause to waive notice of proposed rulemaking because delay in publishing final regulations would not be in the public interest. Although these are final regulations, we will, as indicated under DATES, consider comments mailed within 60 days. Although we cannot acknowledge individual comments, if we change these regulations, we will discuss all the comments in the preamble to the revised regulations.

Impact Analysis

Executive Order 12291

Executive Order 12291 requires us to prepare a regulatory analysis for any rule that is likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or significant adverse effects on business or employment.

These rules will not result in any significant costs or benefits. They primarily implement statutory provisions; we estimate the economic impact of the statutory provisions as follows:

1. Fire safety amendments will not require additional expenditures by institutions or by the Medicare and Medicaid programs. Facilities that complied with an earlier edition of the Code are covered by the grandfather clause. New facilities would be subject to the 1981 edition of the Code, which is less costly because it offers more alternatives for meeting specific requirements.

2. The speech pathology amendment will have no appreciable economic impact.

3. The amendment that permits participation of proprietary HHAs is expected to increase program costs for fiscal year 1982 by $7.6 million: $7.3 million for services and $.3 million for survey and certification of the proprietary HHAs that enter the program.

Regulatory Flexibility Act of 1980 (Pub. L. 96-354)

This Act requires us to prepare and publish a regulatory flexibility analysis (RFA) for any regulations that will have a significant adverse impact on a substantial number of small entities. An RFA is not required for these regulations because, as stated above, they primarily implement statutory requirements.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (agreements), End-stage renal disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

42 CFR Part 442

Certification of intermediate care facilities (ICFs), Certification of skilled nursing facilities (SNFs), Contracts (agreements), Disabled, Grant-in-aid program—health, Health facilities, Health professions, Health records, Information (disclosure), Medicaid, Mental health centers, Nursing homes, Nutrition, Privacy, Safety.

42 CFR Chapter IV is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart A—Hospital Insurance Benefits

A. Subpart A of Part 405 is amended as set forth below:

1. The authority citation is revised to read as follows:

Authority: Secs 1102, 1801–1817 1866 and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395–1395i, 1395cc, and 1395hh.

2. Section 405.170 is revised to read as follows:

§ 405.170 Payment for home health services: Conditions.

Payment for home health services under Medicare Part A may be made only if the following conditions are met:

(a) *Request for payment.* Written request for payment if filed by or on behalf of the individual to whom the services were furnished.

(b) *Physician certification.* A physician provides certification and recertification in accordance with § 405.1633.

B. Subpart B of Part 405 is amended as set forth below:

1. The authority citation is revised to read as follows:

Authority: Secs. 1102, 1831–1843, 1861, 1862, 1866, and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395j–1395v, 1395x, 1395y, 1395cc, and 1395hh.

2. Section 405.250 is revised to read as follows:

§ 405.250 Payment for home health services and for medical and other health services furnished by a participating provider or an ESRD facility: Conditions.

Payment under Medicare Part B, for home health services or for medical or other health services furnished by a participating provider or an ESRD facility, may be made to the provider or facility only if the following conditions are met:

(a) *Request for payment.*

A written request for payment is filed by or on behalf of the individual to whom the services were furnished.

(b) *Physician certification.*

(1) For home health services, a physician provides certification and recertification in accordance with § 405.1633.

(2) For medical and other health services, a physician provides certification and recertification in accordance with § 405.1634.

Subpart J—Conditions of Participation; Hospitals

C. Subpart J of Part 405 is amended as set forth below:

1. The authority statement is revised to read as follows:

Authority: Secs. 1102, 1861 (e), (f) and (g), 1864 and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395x, 1395aa, and 1395hh.

2. Section 405.1022 is amended by revising paragraph (b) to read as follows:

§ 405.1022 Condition of participation—Physical environment.

* * * * *

(b) *Standard: Life safety from fire.* The hospital meets the applicable

provisions of the 1981 edition of the Life Safety Code of the National Fire Protection Association (which is incorporated by reference [1]), except that, after consideration of State survey agency findings and recommendations, if any, HCFA may waive, for such periods as deemed appropriate, specific provisions of the Code which, if rigidly applied, would result in unreasonable hardship upon a particular hospital, but only if such waiver will not adversely affect the health and safety of the patients; and except that the provisions of the Life Safety Code applicable to hospitals shall not apply in any State if HCFA makes a finding that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects patients in hospitals. Any hospital that on November 26, 1982, complies with the requirements of the 1967 edition of the Life Safety Code, with or without waivers, will be considered to be in compliance with this standard, as long as the facility continues to remain in compliance with that edition of the Code. The factors explaining the standard are as follows:

(1) The hospital meets the Life Safety Code standards applicable to hospitals.

(2) The hospital maintains written evidence of regular inspection and approval by State or local fire control agencies.

(3) [Reserved.]

(4) [Reserved.]

(5) The hospital has procedures for the proper routine storage and prompt disposal of trash.

(6) Written fire control plans contain provisions for prompt reporting of all fires; extinguishing fires; protection of patients, personnel and guests; evacuation; and cooperation with fire fighting authorities.

* * * * *

Subpart K—Conditions of Participation; Skilled Nursing Facilities

D. Subpart K of Part 405 is amended as set forth below:

1. The authority citation is revised to read as follows:

Authority: Secs. 1102, 1814, 1832, 1833, 1861, 1863, 1865, 1866, 1871, of the Social Security Act; 42 U.S.C. 1302, 1395f, 1395k, 1395l, 1395x, 1395z, 1395bb, 1395cc, 1395hh.

2. In § 405.1134 the undesignated introductory paragraph is reprinted and paragraph (a) is revised to read as follows:

§ 405.1134 Condition of participation—physical environment.

The skilled nursing facility is constructed, equipped, and maintained to protect the health and safety of patients, personnel, and the public.

(a) *Standard: Life safety from fire.* The skilled nursing facility meets the applicable provisions of the 1981 edition of the National Fire Protection Association's Life Safety Code (which is incorporated by reference [1]), except that, in consideration of a recommendation by the State survey agency, HCFA may waive, for such periods as deemed appropriate, specific provisions of the Code which, if rigidly applied, would result in unreasonable hardship upon a skilled nursing facility, but only if such waiver will not adversely affect the health and safety of the patients; and except that the provisions of the Code shall not apply in any State if HCFA finds, in accordance with applicable provisions of section 1861(j)(13) of the Social Security Act, that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects patients in skilled nursing facilities.

Any SNF that on December 4, 1980 or on [30 days after publication] complied with the requirements of the 1967 or 1973 edition of the Life Safety Code, with or without waivers, will be considered to be in compliance with this standard so long as the facility continues to remain in compliance with that edition of the Code.

Any facility of two or more stories that is not of fire resistive construction and is participating on the basis of a waiver of construction type or height, may not house blind, nonambulatory, or physically handicapped patients above the street-level floor unless the facility—

(1) Is one of the following construction types (as defined in the Life Safety Code)—

(i) Type II (1, 1, 1)—protected non-combustible;

(ii) Fully sprinklered Type II (0, 0, 0)—non-combustible;

(iii) Fully sprinklered Type III (2, 1, 1)—protected ordinary;

(iv) Fully sprinklered Type V (1, 1, 1)—protected wood frame; or

(2) Achieves a passing score on the Fire Safety Evaluation System (FSES).

[1] Incorporation of the 1981 edition of the Life Safety Code, which is also referenced in other parts of Chapter IV, was approved by the Director of the Federal Register on September 28, 1981. The code is available for inspection at the Office of the Federal Register Information Center, Room 8301, 1110 L Street, NW., Washington, D.C. Copies may be obtained from—

National Fire Protection Association, Battery March Park, Quincy, Mass. 02269.

If any changes in this Code are also to be incorporated by reference, a notice of that effect will be published in the Federal Register.

[1] See footnote to § 405.1022(b) of this chapter.

Subpart L—Conditions of Participation; Home Health Agencies

E. Subpart L of Part 405 is amended as set forth below:

1. The authority citation is revised to read as follows:

Authority: Secs. 1102, 1842, 1861, 1862, 1870 and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395u, 1395x, 1395y, 1395gg, and 1395hh.

2. Section 405.1220 is revised to read as follows:

§ 405.1220 Condition of participation: Compliance with Federal, State, and local laws.

The home health agency and its staff are in compliance with all applicable Federal, State, and local laws and regulations. If State or applicable local law provides for the licensure of home health agencies, an agency not subject to licensure must be approved by the licensing authority as meeting the standards established for such licensure.

3. Section 405.1221 is amended by revising paragraph (a) to read as follows:

§ 405.1221 Condition of participation: Organization, services, administration.

* * * * *

(a) *Standard: Services provided.* Part-time or intermittent skilled nursing services and at least one other therapeutic service (physical, speech, or occupational therapy; medical social services; or home health aide services) must be made available on a visiting basis, in a place of residence used as a patient's home. A home health agency must provide at least one of the qualifying services directly through agency employees, but may provide the second qualifying service and additional services under arrangements with another agency or organization.

* * * * *

Subpart P—Certification and Recertification; Claims and Benefit Payment Requirements; Check Replacement Procedures

F. Subpart P is revised as set forth below:

1. The authority citation is revised to read as follows:

Authority: Secs. 1102, 1814, 1835, and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f, 1395m, and 1395hh.

2. Section 405.1633 is amended by revising paragraphs (a) and (b) and adding new paragraphs (c) and (d) to read as follows:

§ 405.1633 Home health services: Certification and recertification.

(a) *Certification.*—(1) *Basic requirements.* As a condition for payment under Medicare Part A or Medicare Part B, a physician must certify that—

(i) The individual needs or needed intermittent skilled nursing care, or physical or speech therapy, or (for the period from July through November 30, 1981) occupational therapy;

(ii) Home health services were required because the individual was confined to the home except when receiving outpatient services;

(iii) A plan for furnishing the services has been established and is periodically reviewed by a physician who is not precluded from performing this function under paragraph (d) of this section; and

(iv) The services were furnished while the individual was under the care of a physician.

(2) *Special provisions applicable to Medicare Part A services furnished before July 1981.* As a condition for payment for Medicare Part A services furnished before July 1, 1981, the certification must also certify that the services were needed for a condition for which the individual had received inpatient hospital or SNF care.

(b) *Recertification.*—(1) *Timing and signature of recertification.* Recertification is required at least every 2 months, preferably at the time the plan is reviewed, and must be signed by the physician who reviews the plan.

(2) *Content and basis of recertification.* The recertification statement must indicate the continuing need for services and estimate how much longer the services will be required. Need for occupational therapy may be the basis for continuing services that were initiated because the individual needed skilled nursing care or physical or speech therapy.

(c) *Certification by a doctor of podiatric medicine.* After December 31, 1980, for purposes of certifying and recertifying need for home health services, the term "physician" may include a doctor of podiatric medicine if—

(1) The beneficiary needs the services because of a podiatric condition which that doctor is legally authorized to treat; and

(2) Performance of the certification function by a doctor of podiatric medicine is consistent with the HHA's policy.

(d) *Limitations on performance of certification and plan of treatment functions.* After November 26, 1982 need for home health services to be provided by a home health agency that is not a governmental entity may not be certified or recertified and a plan of treatment may not be established and reviewed by any physician who has a significant ownership interest in, or a significant financial or contractual relationship with, the agency. For purposes of this paragraph (d)—

(1) "Significant financial or contractual relationship" means a relationship that involves direct or indirect business transactions that, in any fiscal year, amount to more than $25,000 or 5 percent of the agency's total operating expenses, whichever is less. Business transactions means contracts, agreements, purchase orders, or leases to obtain services, supplies, equipment, and space; and

(2) A physician will be considered to have a "significant ownership interest" if he or she—

(i) Has a direct or indirect ownership interest of 5 percent or more in the capital, the stock, or the profits of the home health agency;

(ii) Has an ownership interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation that is secured by the agency, if that interest equals 5 percent or more of the agency's assets; or

(iii) Is an officer or director of an HHA organized as a corporation, or a partner in an HHA organized as a partnership.

3. Section 405.1634 is revised to read as follows:

§ 405.1634 Medical and other health services furnished by a participating provider or ESRD facility: Certification and recertification.

(a) *Basic rules.* As a condition for Medicare Part B payment for services furnished by a provider or ESRD facility, the following requirements must be met:

(1) *Certification.* Certification is required for all services except:

(i) Hospital services and supplies incident to physicians' services furnished to outpatients; and

(ii) Outpatient hospital diagnostic services.

(2) *Recertification.* Recertification of continued need for services is required at least every 30 days for outpatient physical therapy and for outpatient speech pathology services.

(3) *Documentation, signature, and timing.* (i) The certification may be made on a record retained by the provider or facility or on a special form, or a physician's written order may be accepted as certification.

(ii) A certification must be signed by a physician who has knowledge of the case; the recertification, by the physician who reviews the plan of treatment.

(iii) The certification statement may be obtained at the time services are furnished or, if they are furnished on a continuing basis, either at the beginning or at the end of the series of visits.

(b) *Content of certification.*—(1) *Outpatient physician therapy and speech pathology services.* With respect to outpatient physical therapy and speech pathology services as defined in § 405.231(l) (1) and (3) and (m), the physician must certify that—

(i) The individual needed physical therapy or speech pathology services;

(ii) A plan for furnishing the services was established and periodically reviewed by the physician; and

(iii) The services were furnished while the individual was under the care of a physician.

(2) *Home dialysis support services.* With respect to home dialysis support services and home aide services, as defined in § 405.231(p), the certification statement must certify that the services are furnished in accordance with a written plan of treatment established and periodically reviewed by a team that includes the patient's physician and other professionals familiar with the patient's condition.

Subpart Q—Conditions of Participation: Clinics, Rehabilitation Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy and/or Speech Pathology Services; and Conditions for Coverage: Outpatient Physical Therapy Services Furnished by Physical Therapists in Independent Practice

G. Subpart Q is revised as set forth below:

1. The authority citation is revised to read as follows:

Authority: Secs. 1102, 1861(p), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(p), 1395hh).

§ 405.1717 [Amended]

2. Section 405.1717(b) is amended by inserting, in line 3, after the word "physician", the following clause: "or, after December 31, 1980, for speech pathology services, by the speech pathologist who furnishes the services,".

PART 442—STANDARDS FOR PAYMENT FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITY SERVICES

The authority citation for Part 442 remains unchanged and reads as follows:

Authority: Sec. 1102 Social Security Act, 49 Stat. 647 (42 U.S.C. 1302).

Subpart F—Standards for Intermediate Care Facilities Other Than Facilities for the Mentally Retarded

H. Supart F of Part 442 is amended as set forth below:

1. Section 442.321 is amended by revising paragraph (a) and adding a new paragraph (c) to read as follows:

§ 442.321 Fire protection.

(a) Except as provided in §§ 442.322 and 442.323 and paragraph (b) of this section, the ICF must meet the health care occupancy provisions of the 1981 edition of the Life Safety Code of the National Fire Protection Association which is incorporated by reference.[1]

(b) * * *

(c) Any facility that on November 26, 1982 complies with the requirements of the 1967 edition of the Life Safety Code, with or without waivers, will be considered to be in compliance with this standard as long as the facility continues to remain in compliance with that edition of the Code.

2. Section 442.322 is amended by designating and revising the undesignated introductory paragraph as (a), redesignating paragraphs (a), (b), an (c) as (a)(1), (a)(2), and (a)(3), and adding a new paragraph (b), to read as follows:

§ 442.322 Fire protection; Exception for smaller ICF's

(a) The State survey agency may apply the lodgings or rooming houses section of the residential occupancy requirements of the 1981 edition of the Life Safety Code of the National Fire Protection Association (which is incorporated by reference [1]), instead of the health care occupancy provisions required by § 442.321 to an ICF that has 15 beds or less if the ICF is primarily engaged in the treatment of alcoholism and drug abuse and a physician certifies that each resident is—

(1) Ambulatory;

(2) Engaged in an active program for rehabilitation designed to and reasonably expected to lead to independent living; and

(3) Capable of following directions and taking appropriate action for self-preservation under emergency conditions.

(b) Any facility that on November 26, 1982 complies with the requirements of the 1967 edition of the Life Safety Code will be considered to be in compliance with this standard as long as the facility continues to remain in compliance with that edition of the Code.

[1] See footnote to § 405.1022(b) of this chapter.

3. In § 442.323 paragraph (a) is reprinted and paragraphs (a)(1), (a)(2), (a)(3), and (b) are revised to read as follows:

§ 442.323 Fire protection: Waivers.

(a) The State survey agency may waive specific provisions of the Life Safety Code required by § 442.321, for as long as it considers appropriate, if—

(1) The waiver would not adversely affect the health and safety of the residents; and

(2) Rigid application of specific provisions of the Code would result in unreasonable hardship for the ICF; and

(3) The waiver is granted in accordance with guidelines issued by HCFA.

(b) Any facility of two or more stories that is not of fire resistive construction and is participating on the basis of a waiver of construction type or height, may not house blind, nonambulatory, or physically handicapped patients above the street-level floor unless the facility—

(1) Is one of the following constructions types (as defined in the Life Safety Code)—

(i) Type II (1, 1, 1)—protected noncombustible;

(ii) Fully sprinklered Type II (0, 0, 0)—noncombustible;

(iii) Fully sprinklered Type III (2, 1, 1)—protected ordinary;

(iv) Fully sprinklered Type V (1, 1, 1)—protected wood frame; or

(2) Achieves a passing score on the Fire Safety Evaluation System (FSES).

Subpart G—Standards for Intermediate Care Facilities for the Mentally Retarded

I. Subpart G of Part 442 is amended as set forth below:

1. Section 442.507 is amended by revising paragraphs (a) and (b), and adding a new paragraph (c), to read as follows:

§ 442.507 Fire protection.

(a) Except as provided in §§ 442.508, 442.509, and paragraph (b) of this section, the ICF/MR must meet the health care occupancy provisions of the 1981 edition of the Life Safety Code of the National Fire Protection Association which is incorporated by reference.[1]

(b) If the Secretary finds that the State has a fire and safety code imposed by State law that adequately protects residents in ICF's/MR, the State survey agency may apply the State code instead of the Life Safety Code, for purposes of certification for Medicaid.

(c) Any facility that on November 26, 1982, complied with the requirements of the 1967 edition of the Life Safety Code, with or without waivers, will be considered to be in compliance with this standard as long as the facility continues to remain in compliance with that edition of the Code.

[1] See footnote to § 405.1022(b) of this chapter.

2. Section 442.508 is revised to read as follows:

§ 442.508 Fire protection exceptions for smaller ICF's/MR.

(a) For smaller ICFs/MR, the State survey agency may apply the lodgings and rooming-home section of the residential occupancy requirements of the 1981 Edition of the National Fire Protection Association's Life Safety Code (which is incorporated by reference [1]), instead of the health care occupancy provisions required under § 442.507, if the following conditions are met:

(1) The ICF/MR has 15 beds or less.

(2) A physician or psychologist who is a "mental retardation professional", as defined in § 442.401, certifies that each resident is—

(i) Ambulatory;

(ii) Receiving active treatment; and

(iii) Capable of following directions and taking appropriate action for self-preservation under emergency conditions.

(b) Any facility that on November 26, 1982 complies with the requirements of the 1967 edition of the Life Safety Code will be considered to be in compliance with this standard as long as the facility continues to remain in compliance with that edition of the Code.

3. Section 442.509 is revised to read as follows:

§ 442.509 Fire protection waivers.

(a) The State survey agency may waive specific provisions of the Life Safety Code required by § 442.507, for as long as it considers appropriate, if—

(1) The waiver would not adversely affect the health and safety of the residents; and

(2) Rigid application of specific provisions would result in unreasonable hardship for the ICF/MR.

(3) The waiver is granted in accordance with guidelines issued by HCFA.

(b) Any facility of two or more stories that is not of fire resistive construction and is participating on the basis of a waiver of construction type or height, may not house blind, nonambulatory, or physically handicapped patients above the street-level floor unless the facility--

[1] See footnote to § 405.1022(b) of this chapter.

(1) Is one of the following construction types (as defined in the Life Safety Code)—

(i) Type II (1, 1, 1)—protected noncombustible;

(ii) Fully sprinklered Type II (0, 0, 0)—noncombustible;

(iii) Fully sprinklered Type III (2, 1, 1)—protected ordinary;

(iv) Fully sprinklered Type V (1,1,1)—protected wood frame; or

(2) Achieves a passing score on the Fire Safety Evaluation System (FSES).

(Catalog of Federal Domestic Assistance Program No. 13.713, Medical Assistance Programs, No. 13.773 Medicare-Hospital Insurance Program, and No. 13.774 Medicare-Supplementary Medical Insurance)

Dated: July 30, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 30, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-29122 Filed 10-25-82; 8:45 am]

BILLING CODE 4120-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1002

Fees for Transcripts of Commission Proceedings; Revision of Information Provisions

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Freedom of Information Act requires that Commission records be available to the public, and the Commission has designated the fees for these records services in Title 49 Part 1002. The information which informs the public as to how to obtain transcript of testimony and of oral argument is obsolete and is being revised in this notice.

EFFECTIVE DATE: October 26, 1982.

FOR FURTHER INFORMATION CONTACT: Kathleen King, 202-275-0956.

SUPPLEMENTARY INFORMATION: The material contained in § 1002.1(h) regarding availability of Commission transcripts is obsolete. This notice is designed to revise the outdated information and to remove several parts of the test which are unnecessary.

List of Subjects in 49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of Information.

PART 1002—[AMENDED]

Accordingly, 49 CFR Part 1002 is amended as follows:

§ 1002.1 [Amended]

1. Section 1002.1 is amended by removing the two Notes and by revising the authority citation which follows paragraph (h) to read as follows:

(Sec. 501, 65 Stat. 290 (31 U.S.C. 483a; 49 U.S.C. 10101, 10321, 10924, 10925 and 10927; 5 U.S.C. 552, 553, 558, and 559))

2. Section 1002.1 is further amended by revising paragraph (h) to read as follows:

§ 1002.1 Fees for records search, copying, certification, and services in connection therewith.

* * * * *

(h) Transcript of testimony and of oral argument, or extracts therefrom, may be purchased by the public from the Commission's official reporter. For information regarding the official reporter, contact the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

This is not a major Federal action significantly affecting the quality of the human environment or the conservation of energy resources.

This change to the rules will have no adverse effect on small entities. It is merely a change to delete obsolete material and to bring the rules up to date. For the same reason, proposed rules all not considered necessary in this proceeding.

(49 U.S.C. 10321 and 31 U.S.C. 483a)

Decided: October 14, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-29328 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Ex Parte No. 241 (Sub-1)]

Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules, and Practices; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Removal of final rules; correction.

SUMMARY: In an earlier notice, the Commission found that its car service regulations, with the exception of § 1033.15, were not successful in improving railroad freight car utilization, and that they should be removed. At that time, the list of sections to be removed inadvertantly omitted the removal of § 1033.0. This notice corrects that omission.

EFFECTIVE DATE: October 26, 1982.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway, (202) 275-7278,

or

Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION:

PART 1033—[AMENDED]

§ 1033.0 [Removed]

The notice published at 45 FR 49942, July 28, 1980, was meant to remove all sections in Part 1033 with the exception of § 1033.15. Accordingly, § 1033.0, which was intended for inclusion in that notice, is now removed from Title 49 of the Code of Federal Regulations.

(49 U.S.C. 10321(a), 11121(a), and 11122 and 5 U.S.C. 553 and 559)

Decided: October 14, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-29325 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1241

[No. 38701]

Annual Survey Form for Certain Switching and Terminal Companies

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: This final rule adopts an annual survey form for certain Switching and Terminal Companies (S&T's) to simplify the collection process and ensure the uniformity of selected financial and statistical information. The S&T's listed in Appendix C have been voluntarily submitting similar information. The use of a specific form to improve data quality is necessary for the development of regional and system switching costs for Class I railroads.

DATE: Effective for the accounting and reporting year ending December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., (202) 275-7448.

SUPPLEMENTARY INFORMATION:

Background

On March 30, 1982, the Commission served a Notice of Proposed Rulemaking on an Annual Survey Form for Certain Switching and Terminal Companies (47 FR 13540, March 31, 1982). This Notice presented a report form containing basic financial and statistical information that selected Switching and Terminal Companies (S&T's) would submit annually to provide consistent and uniform regulatory costing applications.

While developing the Uniform Rail Costing System, we determined that certain basic financial and statistical information was needed from selected S&T's to develop regional and system switching costs for Class I railroads. These S&T's have been voluntarily furnishing relevant information to the Commission. We proposed a specific report form and the formal selection of particular S&T's to ensure uniform submissions and to improve data quality.

Review of Responses

The Commission received two responses to the Notice of Proposed Rulemaking. Southern Railway System requests that the Commission delete the Kentucky and Indiana Terminal Railroad Company (K&IT) from the list of designated S&T's required to file the Annual Survey Form. The K&IT is now an integral part of the Southern Railway Company; separate data is no longer available.

The Houston Port Bureau, Inc., believes the number of carriers required to file the Annual Survey Form should be expanded to include all railroads providing switching service at major cities and ports. It is primarily concerned that carriers providing switching service in Houston may continue to increase their switching charges at a rate faster than carriers in other cities. For the Houston area, Houston Port Bureau lists the Southern Pacific Railroad, Missouri Pacific Railroad Company, Sante Fe Railroad Company and the Missouri Kansas-Texas Railroad as additional carriers that should file the Annual Survey Form.

Discussion and Conclusions

The use of an annual survey form for railroad regulatory costing applications is essential for determining regional and system switching costs. Historically, the Commission has used S&T's financial and operating statistics in Rail Form A costing applications. The Commission eliminated annual reporting requirements for certain carriers including all S&T's in Docket No. 37523, served December 15, 1980 (46 FR 9114, January 28, 1981). Subsequently, the need for selected basic statistical information from the largest S&T's became evident during the implementation of the Uniform Rail Costing System. Each S&T listed in Appendix C has annual operating revenues in excess of $10 million. Their operating expenses are added to the Class I line-haul railroads' expenses to determine appropriate regional and system switching costs.

The Houston Port Bureau's suggestion that certain line-haul carriers also submit the Annual Survey Form reflects a misunderstanding about its intended use. Expenses related to switching operations of Class I carriers are already reported in their Annual Reports to the Commission. Clearly, the use of the Annual Survey Form by Class I railroads would be duplicative and would distort the results of the Uniform Rail Costing System.

Further, the information from the Annual Survey Form is inadequate for determining switching costs and charges for a specific city or port. Each terminal operation must have more discrete cost information to calculate switching costs and charges for a specific company or location. This degree of specificity is outside the scope of this proceeding.

We have removed the Kentucky and Indiana Terminal Railroad Company from the list of switching and terminal companies required to file the Annual Survey Form (Appendix C). Its switching operating costs are now included in the Annual Report of the Southern Railway Company. We have also removed the Chessie System from the list. This should have read the "Lakefront Dock and Railroad Terminal Company" (Lakefront), a switching and terminal company controlled by the Chessie System and ConRail. However, since the controlling railroads presently treat Lakefront as a joint facility operation, we have removed it from the list of designated carriers.

Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities. This rule directly affects only 18 switching and terminal carriers requiring them to submit previously voluntary information in a standard format. Based on a Bureau of Accounts survey of the affected carriers, it would cost each carrier approximately $240 to complete the report, not a significant impact.

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

List of Subjects in 49 CFR Part 1241

Railroads, Reporting and recordkeeping requirements.

This action is taken under authority of 5 U.S.C. 553 and 49 U.S.C. 11145.

We adopt the reporting changes in Appendix A to 49 CFR Part 1241 and the report form in Appendix B for the designated carriers listed in Appendix C.

Decided: October 15, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Sterrett was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

Appendix A

PART 1241—[AMENDED]

Amend 49 CFR Part 1241 by adding a new § 1241.14:

§ 1241.14 Annual survey form for certain switching and terminal companies.

Commencing with reports for the year ending December 31, 1982, and thereafter until further order, certain switching and terminal companies shall file the Annual Survey Form for Switching and Terminal Companies. The Commission shall designate particular switching and terminal companies by an appropriate order. Designated companies shall file the Annual Survey Form with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the end of the period to which it relates.

BILLING CODE 7035-01-M

Appendix B

INTERSTATE COMMERCE COMMISSION
BUREAU OF ACCOUNTS
Washington, D.C. 20423

Annual Survey Form
for Switching and Terminal Companies

Approved by OMB

Expires 12-31-

Due Date: March 31, 198X

ANNUAL REPORT TO THE
INTERSTATE COMMERCE COMMISSION

(Attach address label here)	Carrier name and address if different than shown

Certification

I hereby certify that this report was prepared by me or under my supervision, that I have examined it, and that the items herein reported on the basis of my knowledge and belief are correctly shown.

Name and Title _____

_____
Street Address, City, State and Zip Code

_____

_____
Telephone Number (including Area Code)

Date _____

Appendix B (cont.)

NOTICE

ESTIMATE OF REPORTING BURDEN

In order to monitor carrier reporting burden and to satisfy OMB requirements pursuant to Section 409 of Public Law 93-153, it is requested that you furnish your best estimate of the number of hours required to complete this report.

In making this estimate, please include the number of hours attributable to preparing the report and for any special compilations contained in this report that would not generally be maintained or used by management for purposes other than reporting to this Commission.

Total hours (Estimated) _____

Appendix B (cont.)

SELECTED BALANCE SHEET ITEMS			
		Respondent only	
Line No.	Item (a)	Balance at Close of Year (b)	Balance at Beginning of Year (c)
1	Cash	$	$
2	Temporary cash investments		
3	Accounts receivable		
4	Materials and supplies		
5	Accounts payable		
6	Taxes accrued		

Appendix B (cont.)

SELECTED RESULTS OF OPERATIONS		
Line No.	Item (a)	Amount for Current Year (b)
7	Total Railway Operating Revenues	$
	Joint Facility Revenues:	
8	Way and Structures (credit)	
9	Equipment (credit)	
10	Total Railway Operating Expenses	
11	Total Way and Structure Operating Expenses	
12	State Income Tax	
13	Other Income Tax	
14	Total Depreciation Expense	
	Depreciation Expenses:	
15	Way and Structures - Total	
16	Equipment - Total	

Appendix B (cont.)

SELECTED ROAD AND EQUIPMENT PROPERTY

Line No.	Item (a)	Credits for property retired during year (b)	Balance at close of year (c)	Accrued depreciation at close of year (d)
17	Engineering	XXXXXX		
18	Total Expenditures-Road	XXXXXX		
19	Total Expenditures-Equipment	XXXXXX		
20	Interest during Construction	XXXXXX		XXXXXX
21	Other Expenditures-General	XXXXXX		XXXXXX
22	Other Elements of Investment	XXXXXX		XXXXXX
23	Construction Work in Progress			
24	Grand Total		XXXXXX	

Appendix B (Cont.)

OPERATING STATISTICS

25. Number of Locomotive - Unit miles in yard switching service freight _____

	Number of cars switched
26. Number of cars switched by your company on your own account	_____
27. Number of cars switched for each railroad served by your company	
Name of Railroad	
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Appendix C

Designated Switching and Terminal Companies for Filing Annual Survey Form

Aliquippa and Southern Railroad Company
The Alton and Southern Railway Company
Baltimore and Ohio Chicago Terminal Railroad Company
The Belt Railway Company of Chicago
Birmingham Southern Railroad Company
Conemaugh and Black Lick Railroad Company
Cuyahoga Valley Railroad Company
Houston Belt and Terminal Railroad Company
Indiana Harbor Belt Railway Company
Lake Terminal Railroad Company
Kansas City Terminal Railway Company
Monongahela Connecting Railroad Company
Patapsco and Back Rivers Railroad Company
Philadelphia, Bethlehem and New England Railroad Company
Port Terminal Railroad Association
South Buffalo Railway Company
Terminal Railroad Association of St. Louis
Union Railroad Company

[FR Doc. 82-29327 Filed 10-25-82; 8:45 am]
BILLING CODE 7035-01-C

Proposed Rules

Federal Register
Vol. 47, No. 207
Tuesday, October 26, 1982

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, and 70

Proposed Amendments Specifying Licensee Responsibility for Nuclear Materials and Procedures for Termination of Specific Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations to specify procedures for the termination of specific licenses authorizing possession and use of nuclear materials. The proposed amendments would clarify a licensee's authority and responsibility for nuclear materials and allow for orderly termination of specific licenses. The proposed rule also specifies that a license remains in effect, with respect to possession of residual nuclear materials present as contamination, until the Commission notifies the licensee, in writing, that the license is terminated. The proposed rule is necessary to establish clear procedures for the termination of licenses in order to establish a more coherent regulatory framework.

DATES: Comments must be received on or before December 27, 1982. Comments received after this date will be considered if it is practical to do so. Assurance of consideration is possible only if the comments are received on or before this date.

ADDRESSES: Submit written comments to the Secretary of the Commission, Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch. Copies of all comments received may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: K. G. Steyer, Chief, Chemical Engineering Branch, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, D.C. 20555 (Telephone: (301) 443-5910).

SUPPLEMENTARY INFORMATION:

Background

Under current NRC regulations, each licensese is required to notify the Commission, in writing, when the licensee decides to permanently discontinue activities involving nuclear materials. There are presently no regulatory requirements, however, for licensees to describe the disposition of nuclear materials authorized under a license. Also, there are no regulatory requirements for licensees, licensed under 10 CFR Parts 30, 40, and 70, to submit a final radiation survey before or at the time a license expires. Presently, the Commission requests information concerning the disposition of licensed nuclear materials and decontamination on a case-by-case basis. Information concerning residual radioactive contamination is requested from licensees in selected cases only where residual contamination is suspected of being a possible problem.

Discussion. Under the proposed regulations, each licensee, if the licensee does not apply for license renewal, would be required by regulation to submit appropriate information concerning the disposal of licensed nuclear materials and information on the absence or presence of residual radioactive contamination. If there is no detectable residual radioactive contamination above background radiation, the license may be terminated on written notice from the Commission.

In those cases where residual contamination is detected, the license would continue in force, beyond the expiration date if necessary, with respect to possession of residual nuclear materials. The licensee would continue to control entry to contaminated areas until (1) decontamination is complete, (2) the licensee has submitted a report of post decontamination survey results to the Commission, and (3) the Commission notifies the licensee in writing that the license is terminated. Prescribed fees charged for licensing services rendered by NRC would continue to be applicable until a license is terminated.

This proposed rule prescribes specific procedures that a licensee will follow in terminating a specific nuclear materials license and clarifies the licensee's responsibility for any residual nuclear materials. It does not address decommissioning issues, such as decommissioning alternatives, timing, planning, financial assurance, and residual radioactivity. Those issues will be considered in a separate rulemaking action. The proposed rulemaking on decommissioning would affect production and utilization facility licensees in addition to byproduct, source, and special nuclear material licensees.

Environmental Impact. The proposed amendments clarify requirements for termination of a licensee's responsibility for nuclear materials. The amendments are administrative in nature and do not add substantive requirements from an environmental viewpoint. Environmentally they are nonsubstantive and insignificant. No environmental impact statement, appraisal, or negative declaration needs to be prepared under 10 CFR 51.5(d)(3).

Paperwork Reduction Review. The proposed rule will be submitted to the Office of Management and Budget (OMB) for clearance of the information collection requirements that may be appropriate under the Paperwork Reduction Act (Pub. L. 96-511). The SF-83 "Request for Clearance," supporting statement, and related documents submitted to OMB will be placed in the Commission's Public Document Room at 1717 H Street NW; Washington, D.C. This material will be available for inspection and copying for a fee.

Regulatory Flexibility Act. Based on the information available at this stage of the rulemaking proceeding and in accordance with Section 605(b) of the Regulatory Flexibility Act of 1980, the Executive Director for Operations certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

The proposed rule would apply to the Commission's approximately 8,100 materials licensees under 10 CFR Parts 30-35, 40, and 70. These licensees include about 5,000 byproduct material licenses under Parts 30, 32, 33, and 34, 2,000 medical licenses under Part 35, 400 source material licenses under Part 40, and 700 special nuclear material licenses under Part 70. The proposed rule would affect about 200 NRC licensees per year who wish to terminate operations.

The NRC estimates that about 90 percent of the affected licensees would be considered small entities under the criteria set out in the size standards of the Small Business Administration in 13 CFR Part 121 (e.g., for most licensees less than 500 employees, for hospitals less than 150 beds, for other medical licenses less than $1.5 million annual gross receipts).

In developing the proposed rule, the NRC has specifically considered the potential problems that would face a small entity under these requirements. The NRC has attempted to structure the proposed requirements to mitigate the economic effect of the proposed rule on small entities to the extent possible considering the Commission's responsibility for public health and safety. Although there is not an absolute correlation between the size of a licensee and the requirements of the regulation, in general; the regulation, as proposed, will have minimal incremental impact on most smaller licensees.

The Commission's regulations do not specifically address the licensee's responsibility for nuclear materials upon the expiration or termination of a license in 10 CFR Parts 30, 40, and 70 or present formalized procedures for license termination. This proposed rule will specify the procedures to be followed when a licensee desires to terminate a materials license. Each licensee will be required to—

1. Submit a form NRC-314 that describes the disposal of licensed materials;

2. Conduct a final radiation survey if appropriate (e.g., licensees with a license for sealed sources may not need a final radiation survey); and either

3. Submit a certification that residual radioactive contamination attributable to activities conducted under the license is not detectable; or

4. Where residual radioactive contamination is present, submit a radiation survey report and a plan for decontamination, if necessary. In some cases, detectable residual contamination may be present, but the level may be suitable for release. In these cases, the licensee will not be required to submit a plan for decontamination. Otherwise, the licensee will prepare and submit a plan for decontamination.

The NRC believes that about 99 percent of the small entities affected by the proposed regulation will be able to comply with the requirements by following the simplest procedure. These licensees would submit a form NRC-314 and a statement certifying that no residual contamination attributable to activities conducted under the license is present. In some cases, a final radiation survey report would be submitted. Data collection for form NRC-314, which describes disposition of licensed materials, is similar to actions performed during regular operations. Some clerical and management time is required to complete the form and submit it. The average impact on small licensees, as a result of requiring submittal of a form NRC-314, is estimated to be less than an hour at an approximate cost of $20. Submittal of a certification letter requires only clerical and management personnel. Preparation and submittal of this letter will probably require about an hour at an approximate cost of $20. It is estimated that the total impact on small licensees under the simple procedure will be about one-half person-day of effort at an approximate cost of $80. Some licensees will be required to submit a final radiation survey report. However, many licensees will not, particularly licensees with sealed sources and byproduct licensees with small license possession limits and short half-life materials. A radiation survey must be conducted by qualified personnel (usually a health physics technician), the report assembled, and submitted. In cases involving extensive contaminated areas some land surveying, sample drilling, and special analyses may be involved.

These actions involve health physics management, clerical, and possibly other types of personnel. On the average for small licensees the impact of submitting radiation survey reports is estimated to be less than one-half person-day at a cost of approximately $80. For some larger licensees the average is estimated to be about two person-days at a cost of approximately $320.

The NRC believes that less than 1 percent of the affected small licensees would be required to submit a decontamination plan. This action will require the average small licensee to expend about one-half person-day of effort at an approximate cost of $80. A comparable effort might require the average larger licensee to expend about four person-days of effort an approximate cost of $640. Preparation and submittal of a decontamination plan requires use of technical, management, clerical, and possibly other types of personnel. Preparation of this plan would be facilitated by using technical and management personnel familiar with the operations.

The NRC believes that incremental costs resulting from the proposed rule will be small. The effect on small entities has been carefully considered in development of the proposed rule and the requirements reduced to the minimum considered necessary for protection of health and safety. However, because of the widely differing conditions under which the licensees covered by this proposed regulation operate, the NRC seeks public comment from small entities. Small entities are asked to describe how the proposed regulation affects them and how it could be further modified or tiered to impose less stringent requirements on them while adequately protecting public health and safety. Those small entities that offer comments on how the regulation could be further modified to take their differing needs into account should discuss specifically:

The size of their business and how the proposed regulations would result in a significant economic burden upon them as compared to larger organizations in the same business community.

How the proposed regulations could be further modified to take into account their differing needs or capabilities.

The benefits that would accrue or the detriments that would be avoided if the regulations were modified as suggested by the commenter.

How the proposed regulation, as modified, would still adequately protect the public health and safety.

List of Subjects

10 CFR Part 30

Byproduct material, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Penalty, Radiation protection, Reporting requirements.

10 CFR Part 40

Government contracts, Hazardous materials—transportation, Nuclear materials, Penalty, Reporting requirements, Source material, Uranium.

10 CFR Part 70

Hazardous materials—transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting requirements, Scientific equipment, Security measures, Special nuclear material.

Proposed Rulemaking

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Parts 30, 40, and 70 is contemplated.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for Part 30 is revised to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 295 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 30.3, 30.34 (b) and (c), 30.41 (a) and (c) and 30.53 are issued under sec. 161b., 68 Stat. 948 as amended (42 U.S.C. 2201(b)); and §§ 30.36, 30.51, 30.52, and 30.55 issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§§ 30.3-30.6, 30.11-30.16, 30.18-30.20, 30.31-30.34, 30.39, 30.41, 30.51, 30.53, 30.55, 30.61, 30.71 [Amended]

2. Remove the authority citations following:

Sections 30.3, 30.4, 30.5, 30.6, 30.11, 30.12, 30.13, 30.14, 30.15, 30.16, 30.18, 30.19, 30.20, 30.31, 30.32, 30.33, 30.34, 30.39, 30.41, 30.51, 30.53, 30.55, 30.61, and 30.71.

§ 30.34 [Amended]

3. Section 30.34 is amended by removing and reserving paragraph (f).

* * * * *

(f) Reserved

* * * * *

4. Section 30.36 is revised to read as follows:

§ 30.36 Expiration and termination of licenses.

(a) Except as provided in § 30.37(b) and paragraph (d)(3) of this section, each specific license expires at the end of the day, in the month and year stated in the license.

(b) Each licensee shall immediately notify the Commission in writing, under § 30.6, when the licensee decides to permanently discontinue all activities involving materials authorized under the license and request termination of the license. This notification and request for termination of the license must include the reports and information specified in paragraphs (d)(1)(iii) and (iv) of this section. The licensee is subject to the provisions of paragraphs (d) and (e) of this section, as applicable.

(c) No less than 30 days before the expiration date specified in a specific license, the licensee shall either—

(1) Submit an application for license renewal under § 30.37; or

(2) Notify the Commission in writing under § 30.6, if the licensee decides not to renew the license.

(d)(1) If a licensee does not submit an application for license renewal under § 30.37, the licensee shall on or before the expiration date specified in the license—

(i) Terminate use of byproduct material;

(ii) Properly dispose of byproduct material;

(iii) Submit a completed form NRC-314; and

(iv) Submit a radiation survey report to confirm the absence of radioactive materials or establish the levels of residual radioactive contamination, unless the Commission determines a radiation survey report is not necessary. The licensee shall—

(A) Report levels of radiation in units of microrads per hour of beta and gamma radiation at one centimeter and gamma at one meter from surfaces, disintegrations per minute (or microcuries) per 100 square centimeters (removable and fixed on surfaces), and picocuries per gram of soil where contaminated soils are reported; and

(B) Specify the survey instrument(s) used.

(2) If no residual radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found. If the information submitted under this paragraph and paragraphs (d)(1)(iii) and (iv) of this section is adequate, the Commission will notify the licensee in writing that the license is terminated.

(3) If detectable levels of residual radioactive contamination attributable to activities conducted under the license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual byproduct material present as contamination until the Commission notifies the licensee in writing that the license is terminated. During this time, the licensee is subject to the provisions of paragraph (e) of this section. In addition to the information submitted under paragraphs (d)(1)(iii) and (iv) of this section the licensee shall submit a plan for decontamination, if necessary.

(e) Each licensee who possesses residual byproduct material under paragraph (d)(3) of this section, following the expiration date specified in the license, shall—

(1) Be limited to actions, involving byproduct material, related to decontamination and other activities related to preparation for release for unrestricted use; and

(2) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the Commission notifies the licensee in writing that the license is terminated.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

5. The authority citation for Part 40 is revised to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95-604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); secs. 274, Pub. L. 86-373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 40.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C 5951). Section 40.31 (g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 40.3, 40.25(d)(1)-(3), 40.35(a)-(d), 40.41(b) and (c), 40.46, 40.51(a) and (c), and 40.63 are issued under sec. 161b, 68 Stat. 948, as amended, (42 U.S.C. 2201(b)), and §§ 40.25(c) and (D)(3) and (4), 40.26(c)(2), 40.35(e), 40.42, 40.61, 40.62, 40.64 and 40.65 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§§ 40.1, 40.2a, 40.3, 40.4, 40.11, 40.13, 40.14, 40.21, 40.22, 40.25, 40.26, 40.31, 40.32, 40.35, 40.41, 40.45, 40.51, 40.61-40.65, 40.71, Appendix A [Amended]

6. Remove the authority citations following:

Sections 40.1, 40.2a, 40.3, 40.4, 40.11, 40.13, 40.14, 40.21, 40.22, 40.25, 40.26, 40.31, 40.32, 40.34, 40.35, 40.41, 40.45, 40.51, 40.61, 40.62, 40.63, 40.64, 40.65, 40.71, and Appendix A.

§ 40.41 [Amended]

7. Section 40.41 is amended by removing and reserving paragraph (f).

(f) [Reserved]

* * * * *

8. Section 40.42 is revised to read as follows:

§ 40.42 Expiration and termination of licenses.

(a) Except as provided in § 40.43(b) and paragraph (d)(3) of this section, each specific license expires at the end of the day, in the month and year stated in the license.

(b) Each licensee shall immediately notify the Commission in writing, under § 40.5, when the licensee decides to

permanently discontinue all activities involving materials authorized under the license and request termination of the license. This notification and request for termination of the license must include the reports and information specified in paragraphs (d)(1)(iii) and (iv) of this section. The licensee is subject to the provisions of paragraphs (d) and (e) of this section, as applicable.

(c) No less than 30 days before the expiration date specified in a specific license the licensee shall either—

(1) Submit an application for license renewal under § 40.43; or

(2) Notify the commission in writing, under § 40.5, if the licensee decides not to renew the license.

(d)(1) If a licensee does not submit an application for license renewal under § 40.43, the licensee shall on or before the expiration date specified in the license—

(i) Terminate use of source material;

(ii) Properly dispose of source material;

(iii) Submit a completed form NRC-314; and

(iv) Submit a radiation survey report to confirm the absence of radioactive materials or establish the level of residual radioactive contamination, unless the Commission determines a radiation survey report is not necessary. The licensee shall—

(A) Report levels of radiation in units of microrads per hour of beta and gamma radiation at one centimeter and gamma at one meter from surfaces, disintegrations per minute (or microcuries) per 100 square centimeters (removable and fixed on surfaces), and picocuries per gram of soil where contaminated soils are reported; and

(B) Specify the survey instruments(s) used.

(2) If no residual radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found. If the information submitted under this paragraph and paragraphs (d)(1)(iii) and (iv) of this section is adequate, the Commission will notify the licensee in writing that the license is terminated.

(3) If detectable levels of residual radioactive contamination attributable to activities conducted under a license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual source material present as contamination until the commission notifies the licensee in writing that the license is terminated. During this time the licensee is subject to the provisions of paragraph (e) of this section. In addition to the information submitted under paragraphs (d)(1)(iii) and (iv) of this section the licensee shall submit a plan for decontamination, if necessary.

(e) Each licensee who possesses residual source material under paragraph (d)(3) of this section, following the expiration date specified in the license, shall—

(1) Be limited to actions, involving source material, related to decontamination and other activities related to preparation for release for unrestricted use; and

(2) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the Commission notifies the licensee in writing that the license is terminated.

9. Section 40.71 is amended by removing paragraph (d) and revising the section heading to read as follows:

§ 40.71 Modification and revocation of licenses.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

10. The authority section for Part 70 is revised to read as follows:

Authority: Secs 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amend, (42 U.S.C. 2071, 2073, 2201, 2232, 2233); secs 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Section 70.7 also issued under Pub. L. 95-601, sec. 20, 92 Stat. 2951 (42 U.S.C. 5851). Section 70. 21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42, U.S.C. 2138).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 70.3, 70.19(c), 70.24(a) and (b), 70.32(a)(3), (5), (6), and (d), 70.36, 70.39(b) and (c), 70.41(a), 70.42(a) and (c), 70.56, 70.57(b), (c) and (d) 70.58(a)-(g)(3), and (h)-(j) are issued under sec. 161(b), 68 Stat. 948, as amended (42, U.S.C. 2201(b)); §§ 70.20a(d), 70.20b (c) and (e), 70.21(c) 70.24(b), 70.32(e) and (g), 70.56, 70.57(b) and (d) and 70.58(a)-(g)(3), and (h)-(j) are isued under sec. 161i, 68 Stat. 949, as amended (42, U.S.C. 2201(i)); and §§ 70.20b(d) and (e), 70.38, 70.51-70.55, 70.58(g)(4), (k), and (1) and 70.59 are issued under sec. 161o, 68 Stat. 950, as amended (42, U.S.C. 2201(o)).

§§ 70.1, 70.3, 70.4, 70.11, 70.14, 70.19, 70.21-70.23, 70.31, 70.32, 70.36, 70.39, 70.41, 70.42, 70.44, 70.53-70.55, 70.57, 70.59, 70.61, 70.62, 70.71 [Amended]

11. Remove the authority citations following:

Sections 70.1, 70.3, 70.4, 70.11, 70.14, 70.19, 70.21, 70.22, 70.23, 70.31, 70.32, 70.36, 70.39, 70.41, 70.42, 70.44, 70.53, 70.54, 70.55, 70.57, 70.59, 70.61, 70.62, 70.71.

12. Section 70.32 is amended by removing and reserving paragraph (h) and revising paragraph (a) introductory text to read as follows:

§ 70.32 Conditions of licenses.

(a) Each license shall contain and be subject to the following conditions:

* * * * *

(h) (Reserved)

* * * * *

13. A new § 70.38 is added to read as follows:

§ 70.38 Expiration and termination of licenses.

(a) Except as provided in § 70.33(b) and paragraph (D)(3) of this section each specific license expires at the end of the day, in the month and year stated in the license.

(b) Each licensee shall immediately notify the Commission in writing, under § 70.5, when the licensee decides to permanently discontinue all activities involving materials authorized under the license and request termination of the license. This notification and request for termination of the license must include the reports and information specified in paragraphs (d)(1) (iii) and (iv) of this section. The licensee is subject to the provisions of paragraphs (d) and (e) of this section, as applicable.

(c) No less than 30 days before the expiration date specified in a specific license the licensee shall either—

(1) Submit an application for license renewal under § 70.33; or

(2) Notify the Commission in writing, under § 70.5, if the licensee decides not to renew the license.

(d)(1) If a licensee does not submit an application for license renewal under § 70.33, the licensee shall on or before the expiration date specified in the license—

(i) Terminate use of special nuclear material;

(ii) Properly dispose of special nuclear material;

(iii) Submit a completed form NRC-314; and

(iv) Submit a radiation survey report to confirm the absence of radioactive materials or establish the level of residual radioactive contamination, unless the Commission determines a radiation survey report is not necessary. The licensee shall—

(A) Report levels of radiation in units of microrads per hour of beta and gamma radiation at one centimeter and

gamma at one meter from surfaces, disintegrations per minute (or microcuries) per 100 square centimeters (removable and fixed on surfaces), and picocuries per gram of soil where contaiminated soils are reported; and

(B) Specify the survey instrument(s) used.

(2) If no residual radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found. If the information submitted under this paragraph and paragraphs (d)(1) (iii) and (iv) of this section is adequate, the Commission will notify the licensee in writing that the license is terminated.

(3) If detectable levels of residual radioactive contamination attributable to activities conducted under the license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual special nuclear material present as contamination until the Commission notifies the licensee in writing that the license is terminated. During this time the licensee is subject to the provisions of paragraph (e) of this section. In addition to the information submitted under paragraphs (d)(1) (iii) and (iv) of this section the licensee shall submit a plan for decontamination, if necessary.

(e) Each licensee who possesses residual special nuclear material under paragraph (d)(3) of this section, following the expiration date specified in the license, shall—

(1) Be limited to actions, involving special nuclear material, related to decontamination and other activities related to preparation for release for unrestricted use; and

(2) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the Commission notifies the licensee in writing that the license is terminated.

Dated at Bethesda, Maryland this 13th day of October, 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc 82-29385 Filed 10-25-82; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 212

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 26

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563f

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

[Docket No. 82-19]

Management Official Interlocks

AGENCIES: Board of Governors of the Federal Reserve System, Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and National Credit Union Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board and National Credit Union Administration are proposing to amend their regulations implementing the Depository Institutions Management Interlocks Act, 12 U.S.C. 3201 *et seq.*, to permit a management official of a depository organization who terminated a grandfathered interlock because of a change in circumstances, as defined by the agencies, to resume the interlock for the duration of the grandfather period under the Act. The agencies are making this proposal to extend to such management officials the benefit of a statutory amendment to the Act, which permits management officials, currently serving in grandfathered interlocks, to continue such service until November 10, 1988, despite the occurrence of a change in circumstances, i.e., mergers, consolidations, acquisition or establishment of an office.

DATE: Written comments should be received no later than November 26, 1982.

ADDRESS: Comments should be directed to: Docket No. [82-19], Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, East, S.W., Washington, D.C. 20219, Attention: C. Christine Jones, (202) 447-1800. Comments will be available for public inspection and photocopying at this address.

FOR FURTHER INFORMATION CONTACT: Bronwen Mason (202) 452-3564 or Melanie Fein (202) 452-3594, Board of Governors of the Federal Reserve System; Jerome Edelstein (202) 447-1880 or Rosemarie Oda (202) 447-1880, Office of the Comptroller of the Currency; Pamela E. F. LeCren (202) 389-4171, or Barbara I. Gersten (202) 38-94171, Federal Deposit Insurance Corporation; David J. Bristol (202) 377-6461 or Kenneth F. Hall (202) 377-6466, Federal Home Loan Bank Board; or Steve Bisker (202) 357-1030, National Credit Union Administration.

SUPPLEMENTARY INFORMATION: On December 26, 1981, Pub. L. 97-110 was signed into law amending the Depository Management Interlocks Act, 12 U.S.C. 3201 *et seq.*, to provide that mergers, acquisitions, consolidations and the establishment of offices do not constitute changes in circumstances which require termination of grandfathered interlocks. Consequently, in a final regulation being published in the **Federal Register** by the agencies, provisions which specified that those events constituted changes in circumstances requiring termination of grandfathered interlocks are rescinded. Ths action has the effect of permitting management officials currently serving grandfathered interlocking positions to continue such service until November 10, 1988 despite the occurrence of a merger, consolidation, acquisition or the establishment of an office.

The final regulation does not address the question of whether management officials who terminated their interlocking service may resume such serrvice. Under their rulemaking authority granted by § 209 of the Interlocks Act, 12 U.S.C. 3207, the agencies propose to amend their respective regulations to permit such management officials to resume their interlocking service for the duration of the grandfather period. A management official who terminated a grandfathered interlock for some reason other than a change in circumstances enumerated in the regulations would not be permitted to resume the interlock. Similarly, any

person who resigned from a grandfathered interlock or otherwise terminated such service for reasons other than a change in circumstances after enactment of the amendment would not be permitted to resume the interlocking service.

The agencies believe that this proposed amendment is consistent with the Congressional intent underlying the statutory amendment to afford an uninterrupted grandfather period for interlocks that were in existence when the Interlocks Act was enacted. This intent was expressed in a statement during Congressional consideration of the statutory amendment that management officials would be permitted to resume interlocking service for the duration of the grandfather period. 127 Cong. Rec. S. 15309 (daily ed. Dec. 15, 1981) (remarks of Senator Garn).

Interested persons are invited to comment on the proposed regulation for thirty days from the date of this publication. A thirty-day comment period, rather than a sixty-day period, has been established to avoid any unnecessary delay in permitting management officials to resume service. Because this proposal involves only one amendment, the agencies believe that thirty days provides ample opportunity for those interested in this regulation to comment.

Regulatory Flexibility Act Analysis. Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 5 U.S.C. 601 *et seq.*), the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Board of Directors of the National Credit Union Administration certify that the proposed amendment, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed amendment would ease the application of the existing regulations. The effect of the amendment is expected to be beneficial rather than adverse and small entities are generally expected to share the benefits of the amendment equally with larger institutions.

Regulatory Impact Analysis. Pursuant to Section 3(g)(1) of Executive Order 12291 of February 17, 1981, it has been determined that the proposed amendment does not constitute a major rule within the meaning of Section 1(b) of the Executive Order. The amendment would ease restrictions imposed by regulations implementing the Depository Institution Management Interlocks Act, 12 U.S.C. 3201 *et seq.*, and would have no adverse effect on the operations of the depository institutions subject to it. As such, the amendment would not have an annual effect on the economy of $100 million or more, would not affect cost or prices for consumers, individual industries, government agencies or geographic regions, and would not have adverse effects on competition, employment, investment, productivity, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

List of Subjects

12 CFR Part 26

National banks, Management official interlocks.

12 CFR Part 212

Antitrust, Holding companies.

12 CFR Part 348

Antitrust, Banks, Banking, Holding companies.

12 CFR Part 563f

Antitrust, Savings and loan associations.

12 CFR Part 711

Antitrust, Credit unions.

Accordingly, pursuant to their respective authority under section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207), the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration propose to amend 12 CFR by amending Parts 212, 26, 348, 563f, and 711, respectively, as follows:

BILLING CODE 4810-33-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 26

Management Official Interlocks

12 CFR Part 26 is proposed to be amended as follows:

PART 26—[AMENDED]

1. The authority citation for Part 26 reads as follows:

Authority: Depository Institution Management Interlocks Act, 92 Stat. 3672 (12 U.S.C. 3201 *et seq.*)

2. Section 26.5 is proposed to be revised to read as follows:

§ 26.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of Section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a change in circumstances defined in 12 CFR 26.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

Dated: August 13, 1982.

C. T. Conover,

Comptroller of the Currency.

BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Part 212

Management Official Interlocks

12 CFR Part 212 is proposed to be amended as follows:

PART 212—[AMENDED]

1. The authority citation for Part 212 reads as follows:

Authority: 12 U.S.C. 3201 *et seq.*

2. Section 212.5 is proposed to be revised to read as follows:

§ 212.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of Section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a change in circumstances defined in 12 CFR 212.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

By order of the Board of Governors of the Federal Reserve System, effective October 12, 1982.

William W. Wiles,

Secretary of the Board.

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

CFR Part 563f

[No. 82-504]

Management Official Interlocks

PART 563f—[AMENDED]

Revise § 563f.5, to read as follows:

§ 563f.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a change in circumstances defined in 12 CFR 563f.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1986.

(Pub. L. No. 95-630 (12 U.S.C. 3201 *et seq., as amended by* International Banking Facility Deposit Insurance Act, Pub. L. No. 97-110, 302 (December 26, 1981)); Reorg. Plan No. 3 of 1947; 3 CFR, 1943-1948 comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

BILLING CODE 6720-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

Management Official Interlocks

12 CFR Part 348 is proposed to be amended as follows:

PART 348—[AMENDED]

1. The authority citation for Part 348 reads as follows:

Authority: Sec. 209, Pub. L. No. 95-6v30, Stat. 3672 (12 U.S.C. 3207).

2. Section 348.5 is proposed to be revised as follows:

§ 348.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a change in circumstances defined in 12 CFR 348.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

By Order of the Board of Directors of the Federal Deposit Insurance Corporation this 23rd day of August 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

BILLING CODE 6714-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

Management Official Interlocks

12 CFR Part 711 is proposed to be amended as follows:

PART 711—[AMENDED]

1. The authority citation for Part 711 reads as follows:

Authority: Sec. 209, Pub. L. No. 95-630, Stat. 3672 (12 U.S.C. § 3207).

2. Section 711.5 is proposed to be revised as follows:

§ 711.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of Section 8 of the Clayton Act (15 U.S.C. § 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a change in circumstances defined in 12 CFR 711.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

Dated: October 12, 1982.

Rosemary Brady,

Secretary, National Credit Union Administration Board.

[FR Doc. 82-29289 Filed 10-25-82; 8:45 am]

BILLING CODE 7535-1-M

FEDERAL RESERVE SYSTEM

12 CFR Part 212

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 26

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563f

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

[Docket No. 82-20]

Management Official Interlocks

AGENCIES: Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and National Credit Union Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Federal Home Loan Bank Board propose to amend their regulations implementing the Depository Institution Management Interlocks Act, which generally prohibits certain management official interlocks between depository institutions, depository holding companies, and their affiliates. The proposed regulatory amendments would (1) simplify the procedures for obtaining exceptions to the Act and extensions of time to permit compliance with the Act, (2) ease the burden of the Act on depository institution holding companies by redefining the terms "office" and "total assets," (3) exclude management officials whose functions relate exclusively to retail merchandising and manufacturing, (4) broaden the circumstances under which the exception to the Act for disruptive management loss is available, (5) clarify the circumstances that require termination of non-grandfathered management official interlocks, and (6) provide that interlocks between depository organizations and nondepository organizations that

become diversified savings and loan holding companies, or their subsidiaries, need not be broken until November 10, 1988, despite the occurrence of changes in circumstances. These amendments will be of substantial interest to the banking, savings and loan, and credit union industries.

DATE: Comments must be received by December 27, 1982.

ADDRESS: Please send your comments to Docket No: 20, Communications Division, Third Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, D.C. 20219. Attn: C. Christine Jones ((202) 447-1800). All comments received will be made available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Bronwen Mason ((202) 452-3564) or Melanie Fein ((202) 452-3594), Board of Governors of the Federal Reserve System; Jerome Edelstein or Rosemarie Oda ((202) 447-1880), Office of the Comptroller of the Currency; Pamela E. F. LeCren or Barbara I. Gersten ((202) 389-4171), Federal Deposit Insurance Corporation; David J. Bristol ((202) 377-6461) or Kenneth F. Hall ((202) 377-6466), Federal Home Loan Bank Board; or Steven R. Bisker ((202) 357-1030), National Credit Union Administration.

SUPPLEMENTARY INFORMATION: The Depository Institution Management Interlocks Act ("Interlocks Act") was enacted as Title II of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (Pub. L. No. 95-630, 12 USC 3101 *et seq.).* The general purpose of the Interlocks Act, and the final regulations issued thereunder, is to foster competition among depository institutions, depository holding companies, and their affiliates. Final regulations implementing the Act were published on July 19, 1979 (44 FR 42152) and were subsequently amended effective May 9, 1980 (45 FR 24384). In addition, section 206 of the Act was amended by Congress on December 26, 1981 (International Banking Facility Deposit Insurance Act, Pub. L. No. 97-110, 95 Stat. 1513), and final and proposed regulations giving effect to the statutory amendment are being published in the **Federal Register.**

Under the Interlocks Act and the current regulations, a person is prohibited from serving as a management official of two or more unaffiliated depository organizations if those organizations, or their depository institution affiliates, have offices located in the same community ("community prohibition"). Similarly, a person may not serve as a management official of two unaffiliated depository organizations if one of the organizations has total assets of $20 million or more and both organizations, or their depository institution affiliates, one of which has total assets of $20 million or more, have offices located in the same Standard Metropolitan Statistical Area ("SMSA prohibition"). Finally, a person may not serve as a management official of two unaffiliated depository organizations or their depository and non-depository affiliates if one of the depository organizations has total assets in excess of $1 billion and the other has total assets in excess of $500 million ("major assets prohibition"). The regulations provide that certain exemptions from these prohibitions may be granted by the appropriate supervisory agencies upon request. In addition, section 206 of the Act, as amended on December 26, 1981, provides that interlocks between depository organizations that existed on November 10, 1978, are "grandfathered" for a period of ten years until November 10, 1988. As amended, section 206 also provides a limited ten-year exemption for management officials serving concurrently with a non-depository corporation and one or more depository organizations whose concurrent service would otherwise become prohibited as a result of the nondepository corporation becoming a diversified savings and loan holding company (as defined in 12 U.S.C. 1730a(a)(1)(F)).

The proposed amendments, if adopted, would relax restrictions of the current regulations and clarify the operation of certain provisions. The proposed amendments are based on the amendment to section 206 of the Act as well as on the agencies' experience in administering the regulations. Although the proposed amendments would ease the application of the current regulations, which are designed to foster competition among depository organizations, the agencies do not anticipate that the proposed changes will adversely affect competition. These proposals are in furtherance of the objectives of the Financial Institutions Regulation Simplification Act of 1980 (Title VIII, Pub. L. No. 96-221; 12 U.S.C. 3521 *et seq.),* which requires that regulations minimize whatever burdens are necessary. The changes would not establish any recordkeeping or reporting requirements. It is anticipated that depository institutions in general would benefit from the propsoed amendments. The proposed amendments and a full explanation of their effect follows.

1. *Definition of "Management Official"—Exclusion of Certain Persons.* Under the current regulations, a person whose management functions relate exclusively to the business of retail merchandising or manufacturing is not a management official for purposes of the prohibition based on major assets. Such a person is, however, considered a management official for purposes of the community and SMSA prohibitions. It has come to the agencies' attention that providing an exclusion only from the major assets prohibition creates an inconsistent result. A holding company employee with management functions solely over manufacturing or retailing activities may serve as a management official of depository organizations located anywhere in the country except in the SMSA or community where the holding company or its depository institution affiliates are located. The agencies propose to amend the definition so that a person whose management functions relate exclusively to retail merchandising or manufacturing is not considered a management official for purposes of any of the general prohibitions of the regulation.

2. *Definition of "Office."* The proposed amendments would exclude from the definition of "office" an office of a depository holding company. The definitional change is necessary to reflect a substantive change in the prohibitions of the regulation discussed at length below under the heading "General Prohibitions."

3. *Definition of "Total Assets"—Total Assets of Certain Holding Companies.* The agencies propose to amend the definition of "total assets" to provide that the total assets of diversified savings and loan holding companies and bank holding companies exempt from the Bank Holding Company Act by virtue of section 4(d) of that Act ("diversified holding companies") equal only the assets of their depository institution affiliates. Currently, the total assets of a diversified holding company are defined to include the assets of the company's depository institution affiliates for purposes of the SMSA prohibition, and the assets of *all* affiliates for purposes of the major assets prohibition. Thus, a management official of a diversified holding company with assets exceeding $1 billion is prohibited from serving as a management official of a depository organization with assets exceeding $500 million, regardless of the size or location of the depository institution affiliate that causes the diversified holding company to be included as a depository organization under the regulations.

By amending the definition of total assets as proposed, the regulations would key the interlocks prohibitions to

the size of the diversified holding company's depository institution affiliate rather than to the size of the holding company system. The agencies believe that focusing on the depository institution affiliate is appropriate because the primary business activities of diversified holding companies normally do not involve competition among depository organizations of the type that the Interlocks Act is intended to foster. In addition, the depository institution affiliate generally represents a very small part of the assets and income of the holding company. Thus, it has been the experience of the agencies in the case of diversified holding companies that the asset size of the holding company itself is not an accurate measure of the market in which its depository institution affiliate actually competes.

The effect of the proposed amended definition is illustrated by the following example: X is a management official of Holding Company A and wishes to serve as a management official of Bank B. Holding Company A is a diversified bank holding company with consolidated assets, including the assets of all of its affiliates, in excess of $1 billion. Its only depository institution affiliate is located in SMSA 1. Bank B's total assets exceed $1 billion and all of its offices are located in SMSA 2. Under the proposed amendment, the total assets of Holding Company A would equal the total assets of its depository institution affiliate. Thus, X's concurrent service would be prohibited only if the assets of A's depository institution affiliate exceeded $500 million.

The agencies also propose to make technical changes in the definition of "total assets" to reflect the changes proposed in the general prohibitions discussed below. Under the current regulations, the total assets of a depository holding company include or exclude the assets of its nondepository institution affiliates depending upon whether the SMSA or major assets prohibitions are to be applied. The proposed change would eliminate that distinction since the total assets of a depository holding company will be irrelevant for purposes of the SMSA prohibitions under the proposed amendments.

4. *General Prohibitions.* The agencies have proposed a revision to the general prohibitions section of the regulations that clarifies the language of the section and, in conjunction with the redefinition of "office," effects a substantive change in its application. The general prohibitions of the current regulations provide that a management interlock may be prohibited due to the location of a depository holding company regardless of whether its depository institution affilates are located in the same community or SMSA as the holding company. For example, the regulations currently prohibit two depository holding companies located in the same community from sharing management officials even though neither has depository institution affilates located in that community or in the same community anywhere in the country. The agencies believe that this prohibition is unduly harsh.

The proposed amendment would apply the community and SMSA prohibitions of the regulation solely with reference to the location and asset size of depository institutions and would eliminate from consideration the location or asset size of depository holding companies. This proposed change would permit a depository holding company to interlock with another depository holding company located in the same community or SMSA, unless the major assets prohibition would apply or unless both companies have depository institution affiliates located in that community or SMSA and, in the case of an SMSA, one or both of the affiliates have assets in excess of $20 million.

5. *Exemption Relating to Diversified Savings and Loan Holding Companies.* On December 26, 1981, section 206 of the Interlocks Act was amended by adding a new subsection (b), effective as of November 10, 1978, the date of enactment of the Act. Subsection (b), which expires on November 10, 1988, provides that a person serving as a management official of a non-depository corporation and of a depository organization is not prohibited from continuing to serve with both entities as a result of the non-depository corporation becoming a diversified savings and loan holding company, as defined in section 408(a) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)). Without this express exemption, the transformation of the corporation into a depository organization would subject the official's dual service to the prohibitions of the Interlocks Act. Even if such dual service commenced prior to November 10, 1978, it would not be grandfathered under the Act since section 206 grants grandfather rights only to interlocks between depository organizations.

The agencies in a related action have amended their respective regulations to reflect the addition of subsection (b) to section 206 of the Interlocks Act. This proposal would further amend the regulations to provide that persons who were serving a depository organization and a nondepository organization when the latter became a diversified savings and loan holding company may maintain any interlocking service that existed when the corporation became a diversified savings and loan holding company until November 10, 1988, regardless of whether subsequent changes in circumstances occur that otherwise would require termination of such service. This proposed change reflects the agencies' view that section 206(b) of the Interlocks Act grants rights similar to those provided to grandfathered management officials by section 206(a), as amended by Congress. This interpretation is supported by the legislative history.

In addition, the proposal would permit interlocks between a depository organization and any nondepository subsidiaries of a nondepository organization that becomes a diversified savings and loan holding company to continue until November 10, 1988. If the agencies were to apply subsection (b) only to officials of the nondepository parent organization, inconsistencies would result since the exemption would then permit continued service by the management officials of the parent organization if the organization itself purchased the shares of a savings and loan, but would not permit the same officials to serve with a shell holding company set up by the parent organization to acquire the savings and loan. For example, if a management official were serving concurrently with Bank A, Nondepository Organization B, and Nondepository Organization C (a nondiversified shell holding company formed by B), and if C acquired a savings and loan association, the official would have to terminate his or her interlocking service with A and C even though none of the interlocks would have to be broken if B acquired the savings and loan directly. The effect of such an uneven application would be to discriminate against nondepository organizations that desired to acquire savings and loans through subsidiary holding companies, a result the agencies believe was not intended by Congress.

6. *Agency Approval of Exceptions.* The agencies have proposed a revision in the manner in which exceptions are granted under the regulations. Under the current regulations, an exception must be approved by both the federal supervisory agency of the institution in need of the exception and the supervisory agency of the other institution(s) involved in the interlock. Frequently, the primary federal

supervisor is not the same for each institution, and an applicant for the exception must apply to two or more different agencies. In the interests of simplifying the application of the regulations and affording prompt relief to institutions in need of management expertise, the agencies believe that approval by only the federal supervisory agency of the needy institution should be required for an exception to be granted. Approval by the other supervisory agencies involved would not be required. The proposed regulation would make clear that, if the depository institution seeking to qualify under one of the exceptions had no federal supervisory agency, the federal supervisory agency of the other institution involved in the proposed interlock would grant or deny the applied-for exception.

7. *Extension for Disruptive Management Loss.* The current regulations provide that the agencies may extend for a period of up to 30 months the compliance period for depository organizations losing 50 percent or more of their directors or total management officials as a result of changes in circumstances requiring the termination of management official interlocks. Based on the agencies' experience with this provision, the agencies propose the following changes:

(a) The current provision becomes operative when a depository institution faces the loss of 50 percent of either its directors or total management officials. Recognizing that the loss of a smaller percentage of management officials may also cause significant disruption to a depository organization, the agencies propose to reduce to 30 percent the percentage necessary to qualify for the extension.

(b) Under the existing regulations, the 30-month extension becomes available only when the depository organization facing disruptive management loss experiences a change in circumstances. It has come to the agencies' attention that a depository organization may experience a disruptive loss of management officials due to changes in circumstances involving other depository organizations but not the affected organization itself, or due to a series of changes in circumstances involving the organization and other depository organizations. Recognizing that these situations also may cause disruptive management loss, the agencies propose to make the 30-month extension available when any change in circumstances or combination of changes in circumstances results in the potential loss of 30 percent or more of an organization's directors or total management officials. Under the proposed amendments, changes in circumstances that occur within a 15-month period will be viewed in the aggregate in order to determine whether the requisite percentage exists. The 30-month period would be measured from the date of the first change in circumstances that occurred within the 15-month period.

The following example illustrates how the new provision would operate: Bank A, located in SMSA 1, has 10 directors. One of Bank A's directors serves as a director of Bank B in SMSA 2, one serves as director of Bank C in SMSA 3, and one serves as director of Bank D in SMSA 4. In Month 1, Bank B merges with a bank in SMSA 1. In month 7, Bank A merges with a bank located in SMSA 4. In Month 13, Bank C merges with a bank in SMSA 1. As a result of these mergers, Bank A's interlocks with each of the other three banks become prohibited. Bank A's management officials may apply for an extension to terminate the prohibited interlocks, which would end 30 months from the first change in circumstances.

(c) Under the current regulations, an organization qualifying for the 30-month extension must experience a change in circumstances that "requires the termination of service" of its directors or management officials. When some of the directors whose interlocks become prohibited in fact intend to retain their positions with the depository organization experiencing the change in circumstances, the extension would not appear to be necessary to avoid unduly disrupting the affected organization. For this reason, the agencies propose to limit the availability of the extension by requiring applicants to submit a written statement demonstrating the likelihood of disruptive management loss. The agencies do not believe this requirement would impose an undue regulatory burden; its purpose would be simply to ensure that the 30-month extension is granted only to organizations truly in need of relief. For purposes of demonstrating the likelihood of management loss, the agencies propose to estabish a rebuttable presumption that a director who is a full-time employee of the affected organization normally would not terminate interlocking service by resigning from that organization. The agencies believe that such a presumption is reasonable and would ease the regulatory burden in evaluating requests under this provision.

8. *Changes in Circumstances—Nongrandfathered Interlocks.* The Interlocks Act authorizes the agencies to grant a period of time, not in excess of 15 months, for compliance with the Act following changes in circumstances that cause interlocks to become prohibited. The current regulations provide that a management official with a nongrandfathered interlock that becomes prohibited as a result of a voluntary change in circumstances may continue to serve until the next regularly scheduled annual shareholders meeting of the institutions involved following a change in circumstances, unless the agencies impose a shorter time period. The management official may request an extension of the grace period not in excess of 15 months from the date of the change in circumstances. If the management official's non-grandfathered service becomes prohibited due to an involuntary change in circumstances, however, such as natural growth or a change in community or SMSA boundaries, the maximum 15-month grace period applies.

In order to simplify the grace period provision, the agencies propose to provide the maximum 15-month grace period for all changes in circumstances, whether voluntary or involuntary. This change would eliminate the necessity for institutions to apply for extensions of time, which in most cases are only for several months. In view of this proposal, the distinction between voluntary and involuntary interlocks would no longer be necessary. Accordingly, the proposed amendments would eliminate the distinction.

Since adopting the regulations, it has been the agencies' experience that other changes in circumstances, such as the termination of an affiliate relationship between two or more depository organizations, may cause nongrandfathered interlocks to become prohibited. The list of changes in circumstances specified in the regulations was intended to reflect the most commonly occurring changes and, as indicated when the regulations were originally adopted, was not intended to be exhaustive. To clarify their intent in this regard, the agencies propose to amend the regulations to indicate that nongrandfathered interlocks that become prohibited due to changes in circumstances other than those enumerated in the regulations also will be eligible for a grace period. The amendment also would specifically include disaffiliation as a change in circumstances.

9. *Effect on Clayton Act.* The Board of Governors of the Federal Reserve System is proposing to make a technical change in its regulation by eliminating

section 212.7 pertaining to the effect of the Interlocks Act on the Clayton Act. This section states that the Board of Governors regards the provisions of the first three paragraphs of section 8 of the Clayton Act to have been supplanted by the Interlocks Act. The other agencies' regulations do not include this provision since only the Board of Governors had jurisdiction over management interlocks under the Clayton Act prior to enactment of the Interlocks Act. The substance of the section will be incorporated into the authority section of the regulation. This proposed change is intended to make the agencies' regulations more uniform in appearance.

10. *Regulatory Flexibility Act Analysis.* Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 5 U.S.C. 601 *et seq.*), the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration certify that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed amendments would ease the application of the existing regulations and do not have any particular effect on small entities. The effect of the amendments is expected to be beneficial rather than adverse and small entities are generally expected to share the benefits of the amendments equally with larger institutions.

11. *Regulatory Impact Analysis.* Pursuant to Section 3(g)(1) of Executive Order 12291 of February 17, 1981, it has been determined that the proposed amendments do not constitute a major rule within the meaning of Section 1(b) of the Executive Order. The amendments ease restrictions imposed by regulations implementing the Depository Institution Management Interlocks Act, 12 U.S.C. 3201 *et seq.*, in instances where the easing of such restrictions has no anticompetitive effect. The amendments have no adverse effect on the operations of the depository institutions subject to them. As such the amendments will not have an annual effect on the economy of $100 million or more, will not affect costs or prices for consumers, individual industries, government agencies or geographic regions, and will not have adverse effects on competition, employment, investment, productivity, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

List of Subjects

12 CFR Part 26

National Banks, Management official interlocks.

12 CFR Part 212

Antitrust, Holding companies.

12 CFR Part 348

Antitrust, Banks, Banking, Holding companies.

12 CFR Part 563f

Antitrust, Savings and loan associations.

12 CFR Part 711

Antitrust, Credit unions.

Accordingly, pursuant to their respective authority under section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207), the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration hereby propose to amend Title 12 of the Code of Federal Regulations by amending Parts 26, 212, 348, 563f, and 711, respectively, as follows:

BILLING CODE 4810-33-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563f

[No. 82-505]

Management Official Interlocks

1. Revise paragraphs (f), (g) and (j) of § 563f.2, to read as follows:

§ 563f.2 Definitions.

* * * * *

(f)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) a director (including an advisory director or honorary director); (iii) a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank); or (iv) any person who has a representative or nomineee serving in any such capacity. (2) "Management official" does not include (i) a person whose management functions relate exclusively to the business of retail merchandising or manufacturing; (ii) a person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or (iii) persons described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)).

(g) "Office" means a principal or branch office, located in the United States, of a depository institution. "Office" does not inlcude a representative office of a foreign commerical bank, an electronic terminal, or a loan production office, or any office of a depository holding company.

* * * * *

(j) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of all of its affiliates, except that "total assets" of a diversified savings and loan holding company, as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. "Total assets" of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

* * * * *

2. Revise paragraphs (a) and (b) of § 563f.3, to read as follows:

§ 563f.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area ("SMSA").* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more; or

(2) Offices of depository institution affiliates of both are located in the same SMSA and either of the depository

institution affiliates has total assets of $20 million or more; or

(3) One is a depository institution that has an office in the same SMSA as a depository institution affiliate of the other and either the depository institution or the depository institution affiliate has total assets of $20 million or more.

* * * * *

3. Amend § 563f.4 by revising the introductory language to paragraph (b), subparagraphs (1), (2), (3), and (5) of paragraph (b), and paragraph (c), to read as follows:

§ 563f.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by agency order.* A management official or a prospective management official of an insured institution, a savings and loan holding company, or an affiliate of either may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the Federal supervisory agency (as specified in section 207 of the Interlocks Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications is not subject to the interlocks regulations of any of the Federal supervisory agencies, then the Board shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low-income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, or to be located, in a low income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) The relationship is necessary to provide management or operating expertise to the organization specified in (i) or (ii) above; (B) no interlocking relationship permitted by this subparagraph shall continue for more than five years; and (C) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly-chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly-chartered organization, subject to the the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly-created organization; (ii) no interlocking relationship permitted by this subparagraph shall continue for more than two years after the newly-chartered organization commences business; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to such organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

* * * * *

(5) *Loss of management officials due to changes in circumstances.* If a depository organization is likely to lose 30 percent or more of its directors or if its total management officials due to a change in circumstances described in § 563f.6 of this Part, the affected management officials may continued to serve in excess of the time periods specified in § 563f.6, provided that: (i) The depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization submits a written statement demonstrating that, absent a grant of relief in accordance with this subparagraph; 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a fifteen-month period; and (iv) the depository organization submits a proposal for the orderly termination of service by each such management official over a period not longer than 30 months after the change in circumstances which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to or in lieu of the foregoing may be imposed by the Federal supervisory agency. In evaluating written statements submitted pursuant to this paragraph, the Federal supervisory agency will presume that a director who also is a paid, full-time employee of the depository organization, absent unusual circumstances, will not resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 563f.3, a person who serves as a management official of a depository organization and of a nondepository organization (or any subsidiary thereof) is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in Section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), and may continue to serve until November 10, 1988, despite the occurence of any subsequent changes in circumstances.

4. Revise § 563f.6, to read as follows:

§ 563f.6 Changes in circumstances.

(a) *Nongrandfathered Interlocks.* If a person's service as a management official is not grandfathered under section 563f.5 of this Part, the person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's nongrandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory

agency or agencies take affirmative action in an individual case to establish a shorter period.

(Secs. 206, 207, 209, 92 Stat. 3674, 3675 (12 U.S.C. 3205, 3206, 3207, *as amended by* International Banking Facility Deposit Insurance Act, Pub. L. No. 97-110, 302 (December 26, 1981)); Reorg. Plan No. 3 of 1947; 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

BILLING CODE 6720-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 26

Management Official Interlocks

12 CFR Part 26 is proposed to be amended as follows:

PART 26—[AMENDED]

1. The authority citation for Part 26 reads as follows:

Authority: Depository Institution Management Interlocks Act, 92 Stat. 3672 (12 U.S.C. 3201 *et seq.*)

2. Section 26.2 (h), (i) and (l) are proposed to be revised as follows:

§ 26.2 Definitions.

* * * * *

(h)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) a director (including an advisory director or honorary director); (iii) a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank); or (iv) any person who has a representative or nominee serving in any such capacity. (2) "Management official" does not include (i) a person whose management functions relate exclusively to the business of retail merchandising or manufacturing; (ii) a person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or (iii) persons described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)).

(i) "Office" means a principal or branch office, located in the United States, of a depository institution. "Office" does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office, or any office of a depository holding company.

* * * * *

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of all of its affiliates, except that "total assets" of a diversified savings and loan holding company, as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. "Total assets" of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

* * * * *

3. Section 26.3 (a) and (b) are proposed to be revised as follows:

§ 26.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area ("SMSA").* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more;

(2) Offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or

(3) One is a depository institution that has an office in the same SMSA as a depository institution affiliate of the other and either the depository institution or the depository institution affiliate has total assets of $20 million or more.

* * * * *

4. Section 26.4 is proposed to be amended by revising paragraphs (b), subparagraphs (b)(1), (b)(2), (b)(3), (b)(5) and adding new paragraph (c) to read as follows:

§ 26.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by agency order.* A management official or a prospective management official of a national bank, bank located in the District of Columbia, or an affiliate of either may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the federal supervisory agency (as specified in section 207 of the Interlocks Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications set out below is not subject to the interlocks regulations of any of the federal supervisory agencies, then the Comptroller shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (A) located, or to be located, in a low income or other economically depressed area, or (B) Controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the organization specified in (A) or (B) above; (ii) no interlocking relationship permitted by this subparagraph shall continue for more than five years; and (iii) other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly-chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly-chartered organization, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly-chartered organization, (ii) no interlocking relationship permitted by this subparagraph shall continue for more than two years after the newly-chartered organization commences

business; and (iii) other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to such organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

* * * * *

(5) *Loss of management officials due to changes in circumstances.* If a depository organization is likely to lose 30 percent or more of its directors or of its total management officials due to a change in circumstances described in § 26.6 of this Part, the affected management officials may continue to serve in excess of the time periods specified in § 26.6, provided that: (i) The depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization submits a written statement demonstrating that, absent a grant of relief in accordance with this subparagraph, 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a fifteen-month period; and (iv) the depository organization submits a proposal for the orderly termination of service by each such management official over a period not longer than 30 months after the change in circumstances which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to, or in lieu of, the foregoing may be imposed by the Federal supervisory agency. In evaluating written statements submitted pursuant to this subparagraph, the Federal supervisory agency will presume that a director who also is a paid, full-time employee of the depository organization, absent unusual circumstances, will not resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 26.3, a person who serves as a management official of a depository organization and of a non-depository organization (or its subsidiary affiliates) is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in Section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), and may continue to serve until November 10, 1988, despite the occurrence of any subsequent changes in circumstances.

5. Section 26.6 is proposed to be revised as follows:

§ 26.6 Changes in circumstances.

(a) *Non-grandfathered interlocks.* If a person's service as a management official is not grandfathered under § 26.5 of this Part, the person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's non-grandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period.

Dated: August 13, 1982.

C. T. Conover,

Comptroller of the Currency.

BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Part 212

Management Official Interlocks

12 CFR Part 212 is proposed to be amended as follows:

PART 212—[AMENDED]

1. The authority citation for Part 212 reads as follows:

Authority: 12 U.S.C. 3201 *et seq.*

2. Section 212.2 (h), (i) and(l) are proposed to be revised as follows:

§ 212.2 Definitions.

* * * * *

(h)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) a director (including an advisory director or honorary director); (iii) a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank); or (iv) any person who has a representative or nominee serving in any such capacity. (2) "Management official" does not include (i) a person whose management functions relate exclusively to the business of retail merchandising or manufacturing; (ii) a person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or (iii) person described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. § 3201(4)).

(i) "Office" means a principal or branch office, located in the United States, of a depository institution. "Office" does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office, or any office of a depository holding company.

* * * * *

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The "total assets" of a depository holding company include the total assets of all of its affiliates, except that "total assets" of a diversified savings and loan holding company, as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(1)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. The "total assets" of

a United States branch or agency of a foreign commercial bank means the total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

* * * * *

3. Section 212.3 (a) and (b) are proposed to be revised as follows:

§ 212.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area ("SMSA").* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more; or

(2) Offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or

(3) One is a depository institution that has an office in the same SMSA as a depository institution affiliate of the other and either the depository institution or the depository institution affiliate has total assets of $20 million or more.

* * * * *

4. Section 212.4 is proposed to be amended by revising paragraph (b), paragraphs (b)(1), (b)(2), (b)(3), and (b)(5), and paragraph (c) to read as follows:

§ 212.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by agency order.* A management official or a prospective management official of a state member bank, bank holding company, or an affiliate of either, may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the federal supervisory agency (as specified in section 207 of the Interlocks Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications set out below is not subject to the interlocks regulations of any of the federal supervisory agencies, then the Board shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (A) located, or to be located, in a low income or other economically depressed area, or (B) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (i) the relationship is necessary to provide management or operating expertise to the organization specified in (A) or (B) above; (ii) no interlocking relationship permitted by this subparagraph shall continue for more than five years; and (iii) other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly-chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly-chartered organization, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly-chartered organization; (ii) no interlocking relationship permitted by this subparagraph shall continue for more than two years after the newly-chartered organization commences business; and (iii) other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to such organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

* * * * *

(5) *Loss of management officials due to changes in curcumstances.* If a depository organization is likely to lose 30 percent or more of its directors or of its total management officials due to a change in circumstances described in § 212.6 of this Part, the affected management officials may continue to serve in excess of the time periods specified in § 212.6, provided that: (i) The depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization submits a written statement demonstrating that, absent a grant of relief in accordance with this subparagraph, 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a fifteen-month period; and (iv) the depository organization submits a proposal for the orderly termination of service by each such management official over a period not longer than 30 months after the change in circumstancs which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to, or in lieu of, the foregoing may be imposed by the Federal supervisory agency. In evaluating written statements submitted pursuant to this subparagraph, the Federal supervisory agency will presume that a director who also is paid, full-time employee of the depository organization, absent unusual circumstances, will not resign from the position of director with that depository oranization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 212.3, a person who serves as a management official of a depository organization and of a non-depository organization (or its subsidiary affiliates) is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in

Section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), and may continue to serve until November 10, 1988, despite the occurrence of any subsequent changes in circumstances.

5. Section 212.6 is proposed to be revised as follows:

§ 212.6 Changes in circumstances.

(a) *Non-grandfathered interlocks.* If a person's service as a management official is not grandfathered under §212.5 of this Part, the person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's non-grandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period.

By order of the Board of Governors of the Federal Reserve System, effective October 12, 1982.

William W. Wiles,

Secretary of the Board.

BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

Management Official Interlocks

It is proposed that 12 CFR Part 348 be amended as follows:

PART 348—[AMENDED]

1. The authority citation for Part 348 reads as follows:

Authority: Sec. 209, Pub. L. No. 95-630, 92 Stat. 3675 (12 U.S.C. 3207).

2. Section 348.2 (h), (i) and (l) are proposed to be revised to read as follows:

§ 348.2 Definitions.

* * * * *

"(h)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) (including an advisory director or honorary director); (ii) a director (iii) a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank); or (iv) any person who has a representative or nominee serving in any such capacity. (2) "Management official" does not include (i) a person whose management functions relate exclusively to the business of retail merchandising or manufacturing; (ii) a person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or (iii) persons described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)).

(i) "Office" means a principal or branch office, located in the United States, of a despository institution. "Office" does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office, or any office of a depository holding company.

* * * * *

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of all of its affiliates, except that the total assets of a diversified savings and loan holding company, as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. Total assets of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

* * * * *

(3) Paragraphs (a) and (b) of § 348.3 are to be revised as follows:

§ 348.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area ("SMSA").* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more;

(2) Offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or

(3) One is a depository institution that has an office in the same SMSA as a depository institution affiliate of the other and either the depository institution or the depository institution affiliate has total assets of $20 million or more.

* * * * *

(4) Paragraphs (b), (b)(1), (b)(2), (b)(3), (b)(5), and (c) of Section 348.4 are to be revised as follows:

§ 348.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by agency order.* A management official or a prospective management official of an insured nonmember bank or any affiliate thereof may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the Federal supervisory agency (as specified in section 207 of the Interlocks Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications set out below is not subject to the interlocks regulations of any of the Federal supervisory agencies, then the FDIC shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low income area, minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (A) located, or to be located, in a low income or other

economically depressed area, or (B) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (i) the relationship is necessary to provide management or operating expertise to the organization specified in (A) or (B) above; (ii) no interlocking relationship permitted by this subparagraph shall continue for more than five years; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly-chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly-chartered organization, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly-created organization; (ii) no interlocking relationship permitted by this subparagraph shall continue for more than two years after the newly-chartered organization commences business; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations, faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) the relationship is necessary to provide management or operating expertise to such organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

* * * * *

(5) *Loss of management officials due to change in circumstance.* If a depository organization is likely to lose 30 percent or more of its directors or of its total management officials due to a change in circumstances described in § 348.6 of this Part, the affected management officials may continue to serve in excess of the time periods specified in § 348.6, provided that: (i) The depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization submits a statement demonstrating that, absent a grant of relief in accordance with this subparagraph, 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a fifteen-month period; and (iv) the depository organization submits a proposal for the orderly termination of service by each such management official over a period not longer than 30 months after the change in circumstances which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to or in lieu of the foregoing may be imposed by the Federal supervisory agency. In evaluating written statements submitted pursuant to this subparagraph, the Federal supervisory agency will presume that a director who also is a paid, full-time employee of the depository organization, absent unusual circumstances, will not resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 348.3, a person who serves as a management official of a depository organization and of a nondepository organization (or any subsidiary thereof) is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in Section 408(a)(1)(F) of the National Housing Act (12 U.S.C 1730(a)(1)(F)), and may continue to serve until November 10, 1988, despite the occurrence of any subsequent changes in circumstances.

5. Paragraphs (a) and (b) of section 348.6 are to be revised to read as follows:

§ 348.6 Changes in circumstances.

(a) *Non-grandfathered interlocks.* If a person's service as a management official is not grandfathered under § 348.5 of this Part, the person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's nongrandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period.

By Order of the Board of Directors of the Federal Deposit Insurance Corporation this 23rd day of August 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

BILLING CODE 6714-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

Management Official Interlocks

It is proposed that 12 CFR Part 711 be amended as follows:

PART 711—[AMENDED]

1. The authority citation for Part 711 reads as follows:

Authority: Sec. 209, Pub. L. No. 95-630, 92 Stat. 3675 (12 U.S.C. 3207).

2. Section 711.2(h), (i) and (l) are proposed to be amended to read as follows:

§ 711.2 Definitions.

* * * * *

(h)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) a director (including an advisory director or honorary director); (iii) a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank); or (iv) any person who has a representative or nominee serving in any such capacity. (2) "Management official" does not include (i) a person whose management functions relate exclusively to the business of retail

merchandising or manufacturing; (ii) a person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or (iii) persons described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)).

(i) "Office" means a principal or branch office, located in the United States, of a depository institution. "Office" does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office, or any office of a depository holding company.

* * * * *

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The "total assets" of a depository holding company include the total assets of all of its affiliates, except that "total assets" of a diversified savings and loan holding company, as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. "Total assets" of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

* * * * *

3. Paragraphs (a) and (b) of § 711.3 are proposed to be revised as follows:

§ 711.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area* ("SMSA"). A management official of a depository organization may not serve at the same time as a management official of another depository organizaton not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more;

(2) Offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or

(3) One is a depository institution that has an office in the same SMSA as a depository institution affiliate of the other and either the depository institution or the depository institution affiliate has total assets of $20 million or more.

4. Section 711.4 is proposed to be amended by revising paragraph (b), paragraphs (b)(1), (b)(2), (b)(3), (b)(5), and paragraph (c) to read as follows:

§ 711.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by agency order.* A managment official or a prospective management official of a federally insured credit union or any affiliate thereof may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the Federal supervisory agency (as specified in section 207 of the Interlocks Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications set out below is not subject to the interlocks regulations of any of the Federal supervisory agencies, then the NCUA shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (A) located, or to be located, in a low income or other economically depressed area, or (B) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the organization specified in (A) or (B) above; (ii) no interlocking relationship permitted by this subparagraph shall continue for more than five years; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly-chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly-chartered organization, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly-created organization; (ii) no interlocking relationship permitted by this subparagraph shall continue for more than two years after the newly-chartered organization commences business; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations, faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to such organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case. * * *

(5) *Loss of management officials due to change in circumstance.* If a depository organization is likely to lose 30 percent or more of its directors or of its total management officials due to a change in circumstances described in § 711.6 of this Part, the affected management officials may continue to serve in excess of the time periods specified in § 711.6, provided that: (i) The depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization submits a statement demonstrating that, absent a grant of relief in accordance with this subparagraph, 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a fifteen-month period; and (iv) the depository organization submits a proposal for the orderly termination of service by each such management

official over a period not longer than 30 months after the change in circumstances which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to or in lieu of the foregoing may be imposed by the Federal supervisory agency. In evaluating written statements submitted pursuant to this subparagraph, the Federal supervisory agency will presume that a director who also is a paid, full-time employee of the depository organization, absent unusual circumstances, will not resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 711.3, a person who serves as a management official of a despository organization and of a nondepository organization (or any subsidiary thereof) is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in Section 408(a)(1)(F) the of National Housing Act (12 U.S.C. 1730a(a)(1)(F)), and may continue to serve until November 10, 1988, despite the occurrence of any subsequent changes in circumstances.

5. Paragraphs (a) and (b) of § 711.6 are proposed to be revised to read as follows:

§ 711.6 Changes in circumstances.

(a) *Non-grandfathered interlocks.* If a person's service as a management official is not grandfathered under § 711.5 of this Part, the person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's non-grandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period.

Dated: October 12, 1982.

Rosemary Brady,

Secretary, National Credit Union Administration Board.

[FR Doc. 82-29290 Filed 10-25-82; 8:45 am]

BILLING CODE 7535-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Monthly and Confirmation Statements

AGENCY: Commodity Futures Trading Commission.

ACTION: Petition for rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has received a petition for rulemaking filed pursuant to § 13.2 of its regulations (17 CFR 13.2) requesting that the Commission amend § 1.33(a) of its regulations (17 CFR 1.33(a)) to provide that futures commission merchants ("FCMs") no longer be required to furnish monthly statements to those commodity customers and option customers whose accounts have no open positions at the end of the statement period and no activity since the prior statement period.[1] The Commission has decided to request comment on the rule amendment suggested by the petitioner as modified by this **Federal Register** release.

DATE: Comments must be submitted on or before November 26, 1982.

ADDRESS: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Bruce A. Beatus, Esq., Legal Section, Division of Trading and Markets, at the address above. Telephone (202) 254-8955.

SUPPLEMENTARY INFORMATION: Section 1.33(a) of the Commission's regulations relates to the monthly statements that FCMs must furnish their customers. Subparagraph (a)(1) requires each FCM to furnish to each commodity futures customer a monthly statement showing the open contract, net unrealized profit or loss and funds deposited for margin in the customer's account. Subparagraph (a)(2) requires each FCM to furnish to each option customer a monthly statement showing all commodity options purchased, sold, exercised, or expired identified by underlying futures contract, strike price, transaction date and expiration date; all open commodity option positions carried as of the end of the monthly reporting period; all open commodity option positions marked to the market and the amount each such position is in-the-money, if any;[2] any customer funds carried in the account; and a detailed accounting of all financial charges and credits to the account. Exemptions from certain of the requirements contained in subparagraph (a)(1) are set forth in paragraph (c).

The petitioner is requesting that the Commission amend § 1.33(a) of its regulations to provide that FCMs no longer be required to furnish monthly account statements to those commodity futures or options customers whose accounts have no open positions at the end of the statement period and no trading activity since the prior statement period. The petitioner states that the cost of compliance with § 1.33(a) in regard to accounts which have experienced no trading activity during the previous reporting period is substantial and that, in its view, amending the rule as requested would result in streamlining the reporting requirements for FCMs while not diminishing customer protection.

Excerpts from the petition are set forth below:

Reasons for Petition

Of the * * * accounts carried by [Petitioner], 36% during the period January through July, 1982 had credit balances but did not engage in any commodity trading activity. However, pursuant to the Commission's Regulation § 1.33(a) as stated above, [Petitioner] was required to provide these customers with statements. The cost of providing [these statements] was substantial.

Pursuant to Rule 15c3-2 [17 CFR 240.15c3-2 (1982)] of the Securities Exchange Act of 1934, a registered broker/dealer is required to provide a customer with a statement of the amount due the customer whenever the statement is sent but not less frequently than once every three months. Thus, if there was

[1] The Commission notes that it is also proposing to amend § 1.33 in connection with its proposal to expand the three-year commodity option pilot program to permit and govern the trading of options on physicals on domestic exchanges. While most of these proposed changes are technical in nature, in addition to the amendments affecting options, the Commission is proposing to amend § 1.33 to specify that FCMs must provide to their futures customers information relating to financial charges and credits to the customer's account during the preceding month. 47 FR 28401, 28411 (June 30, 1982).

[2] This in-the-money amount is the amount by which the market price of the underlying futures contract exceeds the strike price in the case of a call option, or the amount by which the market price of the underlying futures contract is less than the strike price in the case of a put option. *See* 46 FR 54500, 54509 (November 3, 1981).

no activity in an account that had a credit balance, then the broker/dealer would only be required to provide a quarterly statement of the balance. If activity occurred in the account then a statement of account would be sent out at the end of the month. This provision is similar to Rule 409 of the New York Stock Exchange which provides that:

> * * * member organizations shall send to their customers statements of account showing security and money positions and entries at least quarterly to all accounts having an entry, money or security position during the preceding quarter.

[Petitioner] submits that Regulation § 1.33(a) in its current form creates a substantial burden on FCMs by causing the generation of a monthly statement where there is no activity in an account and does not serve any regulatory purpose. Further, * * * changing the regulations to provide that the monthly statement does not have to be sent out if there is no activity in an account during the month, would be an important step in an effort to streamline the reporting requirements for FCMs and would not injure or otherwise harm public customers.

The Commission agrees that its recordkeeping requirements for FCMs should be designed to provide meaningful information on a timely basis to the Commission and to customers and should not impose unwarranted burdens. Therefore, the Commission believes that, as there may be merit to the petition, interested persons should have an opportunity to comment upon the amendment to §1.33(a) of the Commission's regulations suggested by the petitioner. The Commission, however, also believes that the petitioner's proposal may be too broad, as, for example, credit charges or other entries may be made on a monthly basis, independent of the occurrence of trading activity and as the customer may otherwise need to be routinely advised as to the status of its account. As a consequence, the Commission is publishing the petitioner's proposal with a modification designed to address this and other similar concerns which are discussed below.

One of the principal purposes of § 1.33(a) is to enable a commodity futures or commodity options customer to appraise its market positions more effectively.[3] As a consequence, the Commission is not convinced that completely eliminating the obligation to provide statements of the type required by § 1.33(a) with respect to accounts wherein no trading activity has occurred since the last statement period would not adversely affect a customer's ability to keep routinely informed as to the current status of its open account. The Commission, is, therefore, proposing an addition to the petitioner's amendment, the purpose of which is to make certain that in the event a customer account has neither open positions at the end of the statement period nor any credits or debits to the account balance since the prior statement period, such customer would still receive, at least once every three months, a statement containing the information prescribed in § 1.33(a).

The Commission is proposing this modification because it believes that it is important that customers be periodically informed as to the status of their accounts. The receipt of an account statement as specified in § 1.33(a) on at least a quarterly basis enables customers to verify the accuracy of the FCM's accounting and to inform themselves of any balance which the FCM might be carrying in their accounts. In addition, this Modification will conform the Commission's monthly statement requirements to those currently existing in the securities industry.[4] Of course, the proposed amendment to § 1.33(a) would not interfere with a customer's ability to detect unauthorized trading in its account because the Commission's proposal does not alter the existing requirement contained in paragraph (b) of § 1.33 that FCMs promptly confirm all commodity futures or option transactions affected for customers.

Moreover, the Commission wishes to point out that its modification of petitioner's rule proposal is intended to clarify that the rule encompasses not merely trading activity, but also any other debit or credit entries in the customer's account occurring during the prior monthly statement period. For example, a customer may agree that its commodity account may be debited to transfer funds for securities trading. In such a case debits would occur within a statement period even though no commodity futures or option trading activity had taken place. The Commission would expect such debit items to be reported to the customer on a monthly, not quarterly, basis, as is presently required by § 1.33(a).

[3] *See* 39 FR 24235 (July 1, 1974).

[4] *See, e.g.*, Rule 15c3–2 of the Securities and Exchange Commission's regulations which provides that, in connection with customers' free credit balances, statements of account be sent not less frequently than once every three months. 17 CFR 240.15c3–2 (1982).

This proposal also reflects a continuation of previous efforts made by the Commission to minimize, to the extent practicable, inconsistent regulatory requirements on Commission registrants which are also subject to regulation by the Securities and Exchange Commission, such as FCM/broker-dealers.

Recode Regulatory Flexibility Act

The Commission has previously determined that registered futures commission merchants are not "small entities" for purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). 47 FR 18618 (April 30, 1982). The requirements of the Regulatory Flexibility Act do not, therefore, apply to these entities. Moreover, this proposed rule amendment, if adopted, would reduce existing requirements.

Accordingly, and for the reasons set forth above, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b), that the rule proposed herein, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

Section 1.33(a) of the Commission's regulations has previously been issued a control number, 3038–0024, pursuant to the Paperwork Reduction Act of 1980, Pub. L. 896–511, 94 Stat. 2812 (44 U.S.C. 3501 *et. seq.)*. As noted above, rather than increasing a paperwork burden, this amendment would reduce an existing recordkeeping obligation. The Office of Management and Budget has been notified of that fact, and a copy of this **Federal Register** notice has been provided to that agency.

List of Subjects in 17 CFR Part 1

Records, Futures commission merchants.

PART 1—[AMENDED]

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 2(a)(1), 4b, 4c, 4g and 8a, thereof, 7 U.S.C. 2, 6b, 6c, 6g and 12a, the Commission hereby proposes to amend Chapter 1, Part 1 of Title 17 of the Code of Federal Regulations by revising § 1.33 introductory text to read as follows:

§ 1.33 Monthly and confirmation statements.

(a) Monthly Statements. Each futures commission merchant must promptly furnish in writing to each commodity customer and to each option customer, as of the close of the last business day of each month or as of any regular monthly date selected, except for accounts in which there are neither open positions at the end of the statement period nor any changes to the account balance since the prior statement period, but in any event not less frequently than once every three

months, a statement which clearly shows:

* * * * *

Issued in Washington, D.C., on October 13, 1982 by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-29384 Filed 10-25-82; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release Nos. 34-19135; 35-22666; IC-12734; S7-946]

Proposed Amendments to Rule 14a-8 Under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is requesting public comment on a wide variety of questions relating to the security holder proposal process. Comment is requested with respect to the appropriate nature of security holders' access to an issuer's proxy statement. To this end comments also are being solicited with respect to three alternative proposals for the regulation of security holder proposals.

DATE: Comments must be received on or before February 24, 1983.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. Comment letters should refer to File No. S7-946 and all comments received will be available for public inspection and copying in the Commission's Public Reference Room.

FOR FURTHER INFORMATION CONTACT: William E. Morley, (202) 272-2573 or John J. Gorman, (202) 272-2573, Office of the Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

Executive Summary

The Commission today is requesting public comment on a wide variety of issues relating to the federal regulation of the security holder proposal process. The issues posed and the three proposals set forth in the release are a part of the Commission's Proxy Review Program designed, in part, to reduce the burdens of compliance with the Commission's proxy rules consistent with investor protection.

Initially, the Commission is asking for the public's views with respect to the fundamental question of whether security holder access to the issuer's proxy statement should be provided under the Securities Exchange Act of 1934 or left to regulation under state law. Further, assuming that the Commission concludes that federal regulation is appropriate, the Commission is inviting comment on three specific proposals for such regulation, which are outlined in Section II of this release and set forth in the appendix hereto.

Proposal I would retain the framework of the current rule with certain revisions proposed to its specific terms, various interpretations thereunder and some of the staff procedures followed in administering the rule. Such revisions are intended to remove those procedural provisions that are not required to further the purpse of the rule as well as to clarify and to simplify the application of the rule.

Proposal II would permit the issuer, with the approval of its security holders, to vary the procedures specified in the Commission's security holder proposal rule. Under Proposal II, issuers would be permitted to formulate eligibility criteria and bases for exclusion of proposal more or less restrictive than those set forth in the Commission's rule.

Proposal III reflects a view that security holders should have relatively unfettered access to the issuer's proxy statement. Proposal III would require inclusion of a proposal so long as it is proper under state law and does not involve an election of directors, subject to a numerical limit on the aggregate number of proposals required to be included in any proxy statement. Such limitation is based on a recognition of the costs involved and therefore is proposed to vary depending on the number of the issuer's security holders.

Finally, the Commission recognizes that some commentators may feel that none of the three proposals would provide a satisfactory mechanism for dealing with security holder proposals. Accordingly, the Commission is asking those persons for any suggestions they may have for a different approach to the issue. Also set forth in the appendix to this release is statistical information concerning the operation of current Rule 14a-8, which information may be of some interest to those persons responding to the Commission's request for comments on the security holder proposal process.

Over the past several years, the Commission has been engaged in a number of major rulemaking initiatives designed to simplify, in a manner consistent with the protection of investors, the complex disclosure systems that have evolved during the more than forty years since the enactment of the federal securities laws. Application of similar themes in other areas produced, among other things, the Integrated Disclosure System, which streamlines and harmonizes two of the three major disclosure systems—the system for the registration of securities under the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77a et seq.] and the continuous reporting system under the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78a et seq.]. In addition, the Commission recently examined the registration requirements and exemptive scheme under the Securities Act and adopted new Regulation D[1], intended to achieve uniformity between state and federal exemptions and to facilitate capital formation.[2]

The Commission now is involved in an extensive program in connection with the third major disclosure system—the rules, forms and schedules relating to the solicitation of proxies. This Proxy Review Program is designed to reduce disclosure burdens, to streamline requirements and to promote proxy statement readability. In furtherance of this program, the Commission has determined to undertake a re-examination of the present regulatory framework governing the security holder proposal process.[3]

I. Background

Recognizing that, with the increased dispersion of security holdings in public companies, the proxy solicitation process rather than the shareholder's

[1] 17 CFR 230.501 et seq.

[2] Release No. 33-6389 (March 8, 1982) [47 FR 11251].

[3] In addition to a re-examination of the security holder proposal process, the program will entail: (1) The revision of rules relating to the disclosure of conflict of interest transactions and relationships between directors and issuers. *See* Release No. 33-6416 (July 9, 1982); (2) the simplification of the provisions contained in Item 402 of Regulation S-K relating to disclosure of management remuneration; (3) the simplification of Form S-14—the merger proxy statement; (4) review of the rules concerning proxy contests; and (5) evaluation of the recommendations of the Advisory Committee on Shareholder Communications concerning the process by which issuers communicate with the beneficial owners of their securities. *See* U.S. Securities and Exchange Commission, "Improving Communications Between Issuers and Beneficial Owners of Nominee Held Securities," *Report of The Advisory Committee on Shareholder Communications*, June 1982.

meeting itself had become the forum for shareholder suffrage, the Commission, since 1942,[4] has provided security holders of public companies subject to its proxy regulations a right to have their proposals presented to the issuer's security holders at large and to have proxies with respect to such proposals solicited at little or no expense to the security holder. This right has been provided by Rule 14a-8 and its predecessors which have required issuers to include in their proxy statements appropriately submitted proposals that were proper for security holder action. In providing this right the Commission intended:

> To place stockholders in a position to bring before their fellow stockholders matters of concern to them as stockholders in such corporation; that is, such matters relating to the affairs of the company concerned as are proper subjects for stockholders' action under the laws of the state under which it was organized.[5]

Since its adoption in 1942, the security holder proposal rule has undergone a number of revisions, generally directed at better defining and refining the bases for exclusion of such proposals from the proxy statement and assuring the goal of security holder communication. Each of these revisions assumed the desirability of continuing the basic regulatory framework reflected in Rule 14a-8.

Fundamental to the Commission's present re-examination of the security holder process, however, is a reevaluation of the need for and desirability of providing a right of security holder access to the issuer's proxy statement under the Exchange Act, and if such right of access is to be continued, what the nature of such right should be. Accordingly, the Commission invites comments on this threshold issue, along with comments on the specific proposals described in the balance of the release. Persons supporting the proposition that there should be no right of access provided under the Exchange Act also should address what disclosure would be required pursuant to Rule 14a-9 under the Exchange Act [17 CFR 240.14a-9] of an issuer that has been advised that certain proposals will be presented at the meeting and that is soliciting discretionary authority which it intends to use to vote against such proposals.[6]

II. Alternatives to Current Rule 14a-8

Assuming that the Commission concludes that a right of access to an issuer's proxy statement should continue to be assured under the Exchange Act, the Commission is inviting comment on three specific proposals for such regulation. In this regard, the Commission is soliciting comment on all of the concepts and rule and interpretive revisions discussed in this release and those reflected in the appendix. Comments also are invited from those persons who believe that security holders should have a right of access to an issuer's proxy statement under the federal securities laws but that there is a preferable regulatory approach to those reflected in current Rule 14a-8 or Proposals I, II or III.

Proposal I

The first alternative approach to the security holder proposal process is to continue regulation based on the concepts underlying current Rule 14a-8. If the Commission adopts that approach, certain changes to the current rule, interpretations thereunder and staff procedures relating thereto will be considered.[7] Such changes are specifically discussed in Section II of the appendix to this release, and a number of such changes are reflected in Proposal I set forth in that section.

The major revisions being proposed to existing Rule 14a-8 include the following. A proponent to be eligible to submit a proposal would have to have been a record or a beneficial owner of at least 1% or $1,000 in market value of the issuer's securities entitled to be voted at the meeting on the proposal for a period of at least one year. Proponents who engage in a general, written solicitation of proxies with respect to a meeting of security holders would be ineligible to use the provisions of Rule 14a-8 for the inclusion of a proposal in the issuer's proxy material for the same meeting. Proponents would only be permitted to submit one proposal per issuer. The deadline for submission of proposals would be revised from 90 to 120 days. Issuers would be required to submit materials to the Commission 60 days before filing preliminary proxy material rather than 50 days.

It is proposed to revise the definition of personal grievance found in Rule 14a-8(c)(4) in line with existing interpretations of that provision. Paragraph (c)(5) of Rule 14a-8 is proposed to be amended to provide that if the issuer demonstrates that the matter involved in the proposal does not meet certain economic criteria or is not otherwise significantly related to the issuer's business, the proposal may be omitted. The Commission also is proposing that paragraph (c)(12) be revised. The revision would change the provision from permitting the omission of a proposal if it is "substantially the same as a proposal previously submitted to security holders" to permitting omission of a proposal if it "deals with substantially the same subject matter as a proposal previously submitted to security holders."

In addition, the Commission is proposing changes in two existing interpretive positions. The first would reverse the existing interpretation that a proposal that either requests the issuer to prepare and to disseminate a special report to shareholders or recommends that a special committee be formed to examine a particular area of the issuer's business may not be excluded under Rule 14a-8(c)(7) as relating to the issuer's ordinary business. Second, the Commission is requesting comment on the adoption of an interpretive postition under Rule 14a-8(c)(10) which would permit the exclusion of a proposal as "moot" if the issuer has "substantially" implemented the action requested by the proposal.

The Commssion also is considering the discontinuance of the issuance of no-action letters under Rule 14a-8, or certain provisions thereof.

These changes, both in the rule and the interpretations thereunder, reflect in large part, criticisms of the current rule that have increased with the pressure placed upon the existing mechanism by the large number of proposals submitted each year and the increasing complexity of the issues involved in those proposals, as well as the susceptibility of certain provisions of the rule and the staff's interpretations thereunder to abuse by a few proponents and issuers. In this regard, it has been suggested that the staff's interpretations of some of the existing provisions are "formalistic" and

[4] Prior to adoption of Rule X-14a-7 (predecessor of Rule 14a-8) the Commission administratively required disclosure of security holder proposals that the issuer had reason to believe would be proposed at the meeting. This position was based upon the inadequacy of disclosure in connection with the solicitation of discretionary authority that the issuer intended to use to vote on those security holder proposals which state law would permit to be raised at the shareholders' meeting. *See* Hearings on SEC Proxy Rules before The House Committee of Interstate and Foreign Commerce, 78th Cong. 1st Sess. pp. 169-170 (1943). Management would often state that it was unaware of any other business to come before the meeting and that it would vote in its judgment on such matters if any came up for a vote. In some cases, management had been advised that a shareholder intended to present a proposal; thus, the solicitation of discretionary authority had been false and misleading. *See* Release No. 34-2376 (January 12, 1940) [5 FR 174].

[5] Release No. 34-3638 (January 3, 1945) [11 FR 10988].

[6] *See* Rule 14a-4(c)(1) under the Exchange Act [17 CFR 240.14a-4(c)(1)].

[7] In addition, as discussed in Part II, if the Commission adopts Proposal II, it will retain a security holder proposal rule to regulate those issuers that do not elect to adopt their own plan. Thus, Proposals I and II might be adopted.

more restrictive than is necessary to achieve the purposes of the rule and have contributed to the abuse of its provisions.[8]

Proposal II

The Commission also is considering a more fundamental change in the security holder proposal process. Under this approach, the Commission would continue to have a rule that specifies the procedures governing the submission and inclusion of security holder proposals, but would adopt a supplemental rule that would permit an issuer and its security holders to adopt a plan providing their own alternative procedures to govern the process. The proposed approach would allow an issuer's board of directors and security holders, rather than the Commission, to make judgements as to what proposals should be included in the issuer's proxy statement at the company's expense. The plan would be required to be approved, and periodically reapproved, by the issuer's security holders. Such reapproval requirement recognizes that the composition of the security holder body changes over time and that new members of the corporate body should be assured some part in defining the parameters of their access to the issuer's proxy statement. The alternative plan or any amendments thereto could be proposed by either the issuer's board of directors or the security holders,[9] and subject to certain minimum requirements discussed in the following paragraph, the provisions of the plan could be as liberal or restrictive as the security holders are willing to approve.

In the event that the Commission were to adopt such an approach, it expects that the rule providing for the plan would contain some minimum limitations on the eligibility criteria and the bases for exclusion of proposals that could be incorporated in the plan. For example, the rule might provide that no such plan could include eligibility criteria that would preclude person(s) holding more than a specified percentage or value of the securities eligible to vote on the matter from submitting a proposal. With respect to the bases for excluding a proposal, the rule might set forth the general bases for exclusion of proposals which an issuer and its security holders could include in the plan. The Commission invites comment on whether it is necessary to provide such limitations on the provisions of the plan, since security holders would have the ability to reject the plan in the event they judge it to provide too limited access to the issuer's proxy statement. Those favoring such limitations are requested to provide specific suggestions as to the appropriate requirements of the rule.[10]

The Commission staff generally would not be involved in determining the includability of specific proposals under the issuer's plan. Disagreements between an issuer and a proponent as to the includability of a proposal pursuant to the plan would be resolved as provided in the plan, and in the last resort, by the courts. The Commission anticipates at least one exception to the foregoing; if the plan permitted under such a rule excludes proposals involving a personal grievance, the Commission staff would continue to be involved in reviewing such proposals to the same degree as it would under its own procedures.[11] The Commission is interested, however, in the commentors' views as to the need to have some form of no-action procedure with respect to other aspects of such plan. The Commission also solicits comments with respect to the practicality and feasibility of relying on the courts as the arbiter of disagreements between proponents and issuers arising under the plan.

This regulatory approach, while continuing to recognize the appropriateness of assuring that security holders have a right of access to the issuer's proxy statement, reflects the view that an issuer's security holders at large have a role to play in defining the scope of that access and the costs that they are willing to have the issuer bear to provide individual security holders the opportunity to communicate with the security holders at large.[12] The Commission also recognizes that commentators' views on this approach may vary significantly depending on the provisions of Rule 14a-8 adopted by the Commission. The Commission therefore invites specific comment on the utility of permitting adoption of such a plan if the Commission were to adopt Proposal I or Proposal III. The Commission also is requesting specific comment on the anticipated cost of such system.

This concept of permitting each issuer and its security holders to determine the extent of access to the issuer's proxy statement and to adopt procedures reflecting such determination is discussed further in Section III of the appendix to this release and incorporated in Proposal II set forth therein.

Proposal III

Another alternative approach to the current security holder proposal process has been suggested recently.[13] Under this approach, all proposals that are proper under state law and that do not involve the election of directors would be included in an issuer's proxy statement, subject to a numerical maximum. The rule would be self-executing and the Commission staff would no longer "adjudicate" disputes concerning the includability of contested proposals. This approach would require a far greater variety of proposals to be included in the issuer's proxy statement than is required under the current rule. However, the number of proposals an issuer would have to include in any particular proxy statement would be specifically limited by a numerical formula, the maximum being a function of the size of the issuer's shareholder body. While this approach would remove the Commission staff from its role as referee in routine interpretive matters, the Commission would still intervene in the process in those rare instances where necessary to redress the most egregious of conduct. This approach is more fully discussed in Section IV of the appendix to this release and incorporated in Proposal III set forth therein.

[8] It has been suggested that under current construction of the rule, a few proponents have been able to use the rule as a publicity mechanism to further personal interests that are unrelated to the interests of security holders as security holders and that certain sophisticated proponents, who submit proposals annually to a variety of issuers, are able to require the inclusion of a proposal which has generated little security holder interest by simply changing its form or minimally varying its coverage. The rule was not designed to burden the proxy solicitation process by requiring the inclusion of such proposals.

[9] It should be noted that under Proposal II as set forth in Section III of the appendix the submission of an alternative plan would not be subject to the eligibility criteria applicable to the submission of other proposals and, as a result, such a plan could be proposed by a single shareholder owning one share of th issuer's voting securities.

[10] For example, under Proposal II as drafted, such plans could limit the number of proposals to one per proponent, could require proponents to pay a processing fee to the issuer, or could include exclusion penalties for noncompliance with procedural provisions, so long as such plan provisions would not result in the exclusion of a proposal of a holder of more than 1% of the issuer's securities entitled to be voted at the meeting on the proposal or $5,000 in market value of such securities.

[11] Thus, if the Commission should determine, in response to public comment, to discontinue the issuance of no-action letters with respect to requests relating to personal grievances, *see* p. 55, *infra*, of the appendix, then the proviso to Rule 14a-8A(c)(3) set forth in Section III of the appendix would not be adopted.

[12] From time to time, shareholders have complained directly to the Commission concerning what they have considered the inordinate cost the current rule has placed on the issuers in which they have invested.

[13] *See* Longstreth, The S.E.C. and Shareholder Proposals: Simplification in Regulation, Remarks to National Association of Manufacturers, Denver, Colorado (December 11, 1981).

In addition to seeking comments on this approach, the Commission solicits specific comment with respect to the costs of this approach alone or in tandem with Proposal II as compared to the costs of adopting either Proposal I or a combination of Proposals I and II.[14]

Those favoring this approach start from four basic premises. The first is that the security holder proposal process serves the public interest and should be preserved as in important element of shareholder democracy. A number of commentators believe that the security holder proposal process serves to validate the larger corporate system itself which is based on the notion of shareholder ownership and control. This belief is based upon the notion that the security holder proposal process introduces a level of accountability on management in making them respond to the questions of their security holders concerning certain major corporate decisions, and therefore the process, at its best, can be an opportunity for a more effective dialogue between management and the security holders and a stimulant for a reappraisal of existing management positions.

The second premise of the proponents of this approach is that the burden of the security holder proposal process on issuers is minimal in comparison to the benefits. While the available information on the actual economic costs of dealing with security holder proposals is limited, it appears to these proponents that those costs are largely within the control of management. On the other hand, these proponents believe that the benefits inherent in having management give careful consideration to legitimate questions raised by the security holders are substantial. While in most cases these benefits are difficult to quantify, these proponents cite numerous instances where management has made changes or taken action in response to proposals which received limited security holder support or where a proposal has been withdrawn after consultation between the proponent and the issuer's management.

Third, these proponents believe that both issuers and proponents will be better served by a simpler and more predictable regulatory process. The process of rendering informal advice concerning disputes about the eligibility of particular proposals for inclusion in the issuer's proxy materials involves difficult factual and legal judgements. As a result, there necessarily have been complaints about certain of the staff interpretations of the exclusionary provisions under existing Rule 14a-8. These complaints focus on the imprecise concepts involved in certain of those exclusionary provisions. Rather than attempting to redefine those exclusionary provisions, these proponents suggest that it is preferable simply to remove the exclusionary provisions altogether since there may be no way to revise the rules with sufficient precision to reach the problems without opening up new avenues of abuse and creating new uncertainties. Those favoring such an approach believe the drawbacks of requiring inclusion of a clearly objectionable proposal are greatly outweighed by the proposed simplification of the process.

Finally, this approach would eliminate the staff's participation in the process and thus relieve one demand on the Commission's limited resources. While the amount of staff time allocated to processing security holder proposals is not larger in absolute terms, it has been growing every year.[15]

[14] Proposals II and III might both be adopted.

[15] The Commission staff spent approximately 1 staff year (1208 hours) in processing materials submitted to it pursuant to Rule 14a-8 during the 1982 season.

III. Impact on Competition

In addition to the issues raised by the aforementioned revisions to Rule 14a-8, the Commission requests written comment on whether any of the proposals, if adopted, would have an adverse effect on competition or would impose a burden on competition which is neither necessary nor appropriate in furthering the purposes of the Exchange Act. Comments on this inquiry should include, to the extent feasible, detailed empirical and evidentiary material in support of any conclusions, opinons or positions. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under Section 23(a)(2) of the Exchange Act.

IV. Regulatory Flexibility Act Certification

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the proposals herein will not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

List of Subjects in 17 CFR Part 240

Reporting requirements, Securities.

Authority

The Commission is proposing the amendments to Rule 14a-8 and interpretations thereunder that are discussed herein pursuant to Sections 14(a) and 23(a) of the Exchange Act, Sections 12(e) and 20(a) of the Public Utility Holding Company Act of 1953, and Sections 20(a) and 38(a) of the Investment Company Act of 1940.

(Sec. 14(a) and 23(a), 48 Stat. 895 and 901; sec. 12(e) and 20(a), 49 Stat. 823 and 833; sec. 20(a) and 38(a), 54 Stat. 822 and 841; 15 U.S.C. 78n(a), 78w(a), 79l(e), 79t(a), 80a-37(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

October 14, 1982.

APPENDIX

I. Statistics Concerning Operation of Current Rule 14a-8

The following presents certain statistical information concerning the operation of current Rule 14a-8 which the Commission believes may be of use to commentators in responding to the Commission's requests for comment concerning the security holder proposal process.

A. Issuers Affected and Costs of Compliance

Rule 14a-8 is applicable to any issuer subject to the proxy rules under Section 14 of the Exchange Act. However, the available information indicates that only a limited number of the approximately 9,000 companies whose securities are registered with the Commission under the Exchange Act actually receive proposals in any year. Statistics compiled by the American Society of Corporate Secretaries show that in the year ended June 30, 1981, 991 proposals were submitted to 376 companies.[16] Preliminary figures for the year ended June 30, 1982 indicate that approximately 850 proposals were submitted to 300 companies. Typically, the issuers receiving proposals are the larger and more widely followed corporations in the country. These companies also tend to receive the bulk of the proposals submitted. In the year ended June 30, 1982, approximately 43 companies received 5 or more proposals, accounting for approximately 350 of the 850 proposals submitted during that period.

To determine the appropriate regulatory approach to the security holder proposal process, the Commission seeks information concerning the cost to these issuers of

[16] The American Society of Corporate Secretaries has approximately 2800 members representing about 1800 companies. The information included in their statistics is obtained from their members, from the Commission's no-action letters under Rule 14a-8 and from information provided by the Interfaith Center on Corporate Responsibility and the Investor Responsibility Research Center

complying with the current rule. In 1976, in response to a similar request for cost information, the Commission received only one response. American Telephone & Telegraph Company ("AT&T") indicated that the cost of including 5 proposals in its proxy statement was $22,450 per proposal while the cost for the 11 proposals excluded from its proxy material was $3,740 per proposal.[17] The Commission is again requesting issuers to provide information relating to the cost of compliance with the current Rule 14a-8. The Commission also is interested in commentators' assessment of the relationship of such costs to the benefit afforded the security holders at large by the rule.

B. Commission Staff Treatment of Contested Proposals

In the year ended June 30, 1981, 173 issuers submitted letters to the staff of the Division of Corporation Finance contesting 387 proposals, and in the year ended June 30, 1982, 182 issuers contested 487 proposals. The following chart summarizes the staff disposition of these proposals.

	1981	1982
Contested proposals	387	487
Included	145	156
Excluded	211	278
No position expressed	0	5
Withdrawn	31	48
Letters issued by the Division of Corporation Finance	285	313
Disposition of contested proposals		
Included:		
A. Division could not give a no-action letter	90	121
B. Division allowed proponent to revise proposal to cure defect	55	35
Total	145	156
Excluded:		
Division took a no-action position for the following reasons (see detailed breakdown below)		
Substantive	133	201
Procedural	78	77
Total	211	278
No Position Expressed:		
The Division declined to express any view with respect to management's reason for exclusion	0	5
Not Acted Upon:		
Withdrawn	31	48
Total contested Proposals	387	487
Reasons for no action positions:		
Sustantive:		
A. Not a proper subject for action—14a-8(c)(1)	0	0
B. Proposal would require issuer to violate any law—14a-8(c)(2)	11	4
C. Proposal is contrary to any of the Commission's proxy rules, including Rule 14a-9—14a-8(c)(3)	12	15
D. Personal claim or grievance—14a-8(c)(4)	9	[1]42
E. Not significantly related to the issuer's business—14a-8(c)(5)	4	5
F. Matters beyond the issuer's control—14a-8(c)(6)	1	2
G. Matters relating to the issuer's ordinary business operations—14a-8(c)(7)	51	73
H. elections to office—14a-8(c)(8)	11	9
I. Counter proposals—14a-8(c)(9)	4	5
J. Mootness—14a-8(c)(10)	12	34
K. Duplicate proposals from two shareholders, one of which will be included—14a-8(c)(11)	6	2
L. Same proposal failed to receive minimum vote on last submission—14a-8(c)(12)	9	8
M. Proposals for specific amounts of dividends—14a-8(c)(13)	3	2
Procedural:		
A. Proponent not voting shareholder—14a-8(a)(1)	6	11
B. Lack of proper notice—14a-8(a)(2)	22	19
C. Not timely—14a-8(a)(3)	48	33
D. Number and length of proposals—14a-8(a)(4)	0	[2]14
Total excluded proposals	211	278

[1] The significant increase in the number of proposals excludable under Rule 14a-8(c)(4) is attributable to twenty proposals submitted by one proponent to Uniroyal, Inc. and to an identical proposal submitted to ten companies by one proponent, The Gold Bondholders Protective Council, Inc.

[2] Proposals excludable under Rule 14a-8(a)(4) are attributable to two letters, one involving 8 proposals and the other involving 6. In each instance, the letter involved a person who had been a frequent proponent under the security holder proposal rule who appeared to be employing a new tactic to submit additional proposals by having individuals or organizations over which he had control submit proposals on his behalf.

[17] These figures were computed as follows:

	Proposals included in proxy	Proposals excluded from proxy
Postage	$13,800	$0
Printing	$60,000	$0
Employee remuneration	$38,450	$38,450
Outside counsel	$0	$2,700
Total	$112,250	$41,150
Number of proposals	5	11
Estimated average cost per proposal	$22,450	$3,740

The costs of postage and printing depend on the number of shareholders. AT&T had approximately 2,903,000 common shareholders as of the record date for the annual meeting in question. Postage costs were based on third class bulk mailing rates.

II. Revisions of Current Rule 14a-8—Proposal I

Among the various alternatives to regulating security holder proposals being considered by the Commission is a revised version of current Rule 14a-8 as discussed in this Section.

A. Procedural Requirements for Proponents

Paragraphs (a) and (b) of Rule 14a-8 are concerned primarily with the eligibility of a proponent to rely on Rule 14a-8 and the procedural requirements that such a proponent must follow in submitting his proposal. Paragraph (a)(1) provides that the proponent must be a record or beneficial owner of a security entitled to be voted on his proposal and that he must continue to own the security through the date of the meeting. Paragraph (a)(2) provides that the proponent must state that he intends to appear personally at the meeting to present his proposal for action, and paragraph (a)(3) requires that a proposal be received by the issuer "not less than 90 days in advance of a date corresponding to the date set forth on the management's proxy statement [for] * * * the last annual meeting of security holders." Paragraph (a)(4) limits each proponent to a maximum of two proposals of not more than 300 words each. Paragraph (b) provides that if management opposes a proposal, the proponent is entitled to have a supporting statement of up to 200 words included in management's proxy materials.

1. *Rule 14a-8(a)(1)—Eligibility.*

Rule Changes Under Consideration

The Commission has received a number of suggestions from the public concerning the imposition of additional eligibility requirements for proponents. The most consistently urged criteria are that a proponent be required to meet "minimum investment" and/or "minimum holding period" thresholds. Suggestions for a "minimum investment" vary from a low of 25 shares to a high of 5% of the issuer's securities. An alternative suggestion is that the minimum investment be defined as a specific dollar amount of all the issuer's securities, such as $1,000. With respect to the "minimum holding period" requirement, commentators generally have specified one year as an appropriate period. The Commission is considering a revision to Rule 14a-8(a)(1) that would provide that to be eligible to submit a proposal, a proponent must own at least 1% or $1,000 in market value of a security entitled to be voted at the meeting on the proposal and have held such securities for no less than one year prior to the date on which he submits the proposal.

The Commission is considering an additional modification to paragraph (a)(1) that would provide that persons who already have solicited, or will solicit an issuer's security holders through the use of a widespread distribution of written proxy soliciting materials with respect to the same meeting of the issuer's security holders, would be ineligible to include a proposal in the issuer's proxy material pursuant to Rule 14a-8. When a security holder undertakes the cost of communicating with other security holders, it may be unnecessary to impose on an issuer and its shareholders the additional costs associated with inclusion of the security holder proposal in the issuer's proxy material.

If Rule 14a-8 is retained, the reference to business days will be changed to a

comparable number of calendar days. This technical change is intended to make the deadline consistent with others in the rule that are set forth in terms of calendar days and still provide a proponent with sufficient time to furnish the requisite documentary support.

2. *Rule 14a-8(a)(2)—Notice.*

Rule Changes Under Consideration

Upon a re-examination of this provision, the Commission believes that requiring the proponent to notify the issuer of his intention to appear personally at the meeting serves little purpose. Accordingly, as part of its continuing effort to streamline the rules it administers and to eliminate unnecessary requirements, the Commission is considering a revision to paragraph (a)(2) that would delete this requirement.

Consistent with the proposed elimination of the notice requirement, the Commission also is considering a revision to the rule which would permit the proponent to arrange, from the outset, to have any person who is permitted under applicable state law, present the proposal for action at the meeting.[18] It is the Commission's view that such change should provide greater assurance that the proposal will be presented at the meeting and that the proposal will be presented by a well-informed person.[19] It must be emphasized, however, that it would continue to be the proponent's responsibility, not his representative's, to insure that the proposal is presented. In the event that the proponent or his representative fails, without good cause, to present the proposal for action at the meeting, the rule would continue to permit the issuer to exclude proposals submitted by the proponent from its proxy soliciting materials relating to any meeting held in the following two years.

In addition, the Commission is considering a revision of the current rule to require a proponent to notify the issuer at the time he submits the proposal of his name, address, the number of the issuer's securities that he holds of record or beneficially and the dates upon which he acquired such securities. This revision would provide the issuer with a means for determining whether the proponent satisfies the new minimum holding period requirement of Rule 14a-8(a)(1) and would facilitate implementation of certain amendments to paragraph (b) of the rule that would change the procedure for advising secuity holders of the proponent's identity.[20]

Interpretive Change Under Consideration

The Commission is not currently considering any other changes to paragraph (a)(2), but notes that it is also considering changing an existing staff interpretation under Rule 14a-8(a)(2). In a letter to *Atlas Corporation*, dated July 25, 1978, the staff indicated that attendance at another shareholders' meeting was good cause for failure to present a proposal. The Commission believes this position may be inconsistent with the provisions of the rule that are designed to assure that the proposal will be presented for action at the meeting. It would appear that a proponent who is unable to attend a particular meeting because of conflicting meeting dates should make arrangements to have an appropriate representative present the proposal at the meeting or forfeit the right to submit proposals to the issuer for the next two years.

3. *Rule 14a-8(a)(3)—Timeliness.*

Rule Changes Under Consideration

The Commission is considering the extension of the deadline for submission of proposals to be included in annual meeting proxy meterial from 90 to 120 days. The 30 day advance in the deadline for annual meeting proxy material is being proposed in conjunction with a 10 day advance in the deadline under paragraph (d) of Rule 14a-8 for the filing by the issuer of the reasons why it believes specific proposals may properly be excluded from its proxy materials.[21]

The Commission believes such changes could benefit both issuers and proponents and make the staff's processing of no-action requests under the rule more efficient. One of the most frequently voiced complaints from issuers is that with the increased number and complexity of security holder proposals and the longer lead time necessary for printing proxy materials, issuers frequently have as little as 10 days between the last date for submission of proposals and the filing date specified in Rule 14a-8(d) for submitting objections to proposals.[22] This limited period of time is proving inadequate for issuers to consider the security holder submissions and to prepare objections where appropriate. Moreover, the increased number of proposals and reductions in the Commission staff available to process contested security holder proposals have made it difficult for the staff to provide timely responses to issuers' letters submitted pursuant to Rule 14a-8(d). The Commission believes that advancing the filing requirements under paragraphs (a)(3) and (d) largely would eliminate the significant timing problems encountered under the current rule.

4. *Rule 14a-8(a)(4)—Number and Length of Proposals.*

Rule Changes Under Consideration

In 1981,[23] the Commission proposed to amend paragraph (a)(4) to permit a proponent to use an aggregate of 500 words for the proposal and a supporting statement, which would be allocated at the discretion of the proponent.[24] The proposal was intended to give proponents more flexibility in the presentation of their proposals and would not have increased the aggregate number of words available to proponents with respect to their proposals. The Commission is resoliciting comment on this change to Rule 14a-8(a)(4).

A number of persons commenting on the 1981 Release also raised issues with respect to aspects of Rule 14a-8 not the subject of the specific proposals addressed therein. The suggestion most frequently made was to reduce the number of proposals permitted security holders from two to one. These commentators suggested that such a change was one way to limit the increasing cost of proposals being received by some issuers. The Commission is requesting comment as to the appropriateness of such a change.

As noted above in the discussion of paragraph (a)(1), the time periods that would apply to all the provisions of a revised Rule 14a-8 would be stated in terms of calendar days. Accordingly, the reference to "10 business days" in paragraph (a)(4) would be changed to "14 calendar days".

[18] The rule currently provides that a proponent may only arrange to have another person present the proposal if, after he furnishes the notice of his intent to appear personally at the meeting, he determines that he will be unable to appear. The existing rule also provides that the person selected by the proponent to represent him at the meeting must be a security holder.

[19] Letter to Will Maslow, American Jewish Congress dated, December 21, 1976.

[20] For a discussion of such changes *see* p. 33, *infra*.

[21] Currently, paragraph (d) requires that the issuer file such reasons, as well as any related materials, at least 50 days prior to the filing of its preliminary proxy materials unless the Commission permits them to be filed within a shorter period.

[22] *See* p. 58, *infra*. for further discussion of the similar change to paragraph (d).

[23] Release No. 34-17517 (February 5, 1981) [46 FR 12011].

[24] *See* p. 33, *infra*. for a discussion of the related change to paragraph (b)'s provision relating to the supporting statement. Currently, the supporting statement is limited to 200 words.

Other Issues

The Commission also is requesting comment on requiring that the proponent, like any other person filing soliciting material with the Commission, pay a fee to the Commission for processing the proposal. The fee initially would be given to the issuer at the time the proposal is submitted to it and paid by the issuer to the Commission.[25] If a proposal does not come before the Commission for review, for example, where it is withdrawn prior to the filing of the issuer's preliminary proxy material and prior to any submission by the issuer pursuant to Rule 14a-8(d), the fee would not be payable to the Commission and therefore would be required to be returned by the issuer to the proponent. The Commission is requesting public comment on the appropriateness and advisability of such a requirement.

5. *Rule 14a-8(b)—Supporting Statements for Proposals.*

Rule Changes Under Consideration

In the 1981 Release, the Commission proposed certain amendments to Rule 14a-8(b). With one exception, the Commission is resoliciting comment on these amendments. The changes proposed in the 1981 Release would have: (1) Permitted proponents to include a supporting statement whether or not the issuer opposed the proposal; (2) in conjunction with the change to paragraph (a)(4), allowed the proponent to submit a proposal and supporting statement totalling not more than 500 words allocated at the discretion of the proponent; and (3) required the issuer to include the name and address of the proponent, as well as the number of shares held by the proponent, in the proxy statement.

The Commission is no longer considering requiring disclosure of the proponent's name and address, but rather is considering deleting the issuer's option of providing such information to the Commission for its dissemination to security holders upon request. The staff has not been able in all cases to respond in a timely fashion to security holders' requests for the name and address of any particular proponent. When proxy materials containing uncontested proposals have not been reviewed by the staff in accordance with the Commission's selective review procedures, such materials have been forwarded to the files before the request arrives. Reordering these materials for the purpose of ascertaining the names and addresses of proponents has in some instances proved to be time consuming. The Commission believes it would be more efficient and a better use of its limited resources to require that this information be included in the proposal or provided by the issuer upon request.

B. Substantive Grounds for Omission of Security Holder Proposals

Rule 14a-8(c) currently sets forth thirteen substantive grounds for omitting security holder proposals from the issuer's proxy material. The thirteen bases are designed to permit exclusion from an issuer's proxy materials of those proposals that are not proper for security holders' action [26] and those that constitute an abuse of the security holder proposal process.[27] Although the Commission has not received any serious suggestions for additional exclusions to be incorporated into the rule, it has become increasingly aware of interpretative difficulties that exist under paragraph (c) of the rule. In order to minimize these problems without impairing reasonable access to the rule, the Commission believes that certain of the exclusionary grounds as well as some of the staff interpretations thereunder may need to be revised. As noted above, the Commission is requesting comment not only on the specific issues herein addressed, but on any additional revisions commentators deem necessary or appropriate. The changes to paragraph (c) and the interpretations thereunder indicated in this Section as under consideration by the Commission are reflected in Proposal I.

1. *Rule 14a-8(c)(3)—Contrary to the Commission's Proxy Rules, including Rule 14a-9.* The most common basis for asserting the right to exclude a proposal pursuant to Rule 14a-8(c)(3) is that either the proposal or its supporting statement is false or misleading in contravention of Rule 14a-9. A proponent's submission may violate Rule 14a-9 in its entirety or it may contain only certain statements that are violative of the rule. As with any preliminary proxy material, the proponent is given the opportunity to amend his submission to correct the Rule 14a-9 problems, except where it is clear that the proposal and supporting statement in their entirety are false or misleading or otherwise are so vague and ambiguous that the issuer and its security holders would not be able to determine what action the proposal is contemplating. Some issuers have been critical of this practice, since, in their view, the staff too frequently allows proponents the opportunity to amend statements. These issuers would prefer the omission of the entire proposal and supporting statement if any information contained therein is misleading. In the Commission's view, however, the staff's practice has worked well and is consistent with the treatment of other proxy soliciting material and has aided issuers and proponents alike in complying with its proxy rules. Thus, the Commission is not currently considering any changes to Rule 14a-8(c)(3) or in the staff's interpretations thereunder.

2. *Rule 14a-8(c)(4)—Personal Claim or Grievance.* Rule 14a-8 is intended to provide security holders a means of communicating with other security holders on matters of interest to them as security holders. It is not intended to provide a means for a person to air or remedy some personal claim or grievance or to further some personal interest. Such use of the security holder proposal procedures is an abuse of the security holder proposal process, and the cost and time involved in dealing with these situations do a disservice to the interests of the issuer and its security holders at large. Thus, Rule 14a-8(c)(4) specifically permits the omission of proposals that relate to the enforcement of personal claim or the redress of a personal grievance.[28]

[25] Such a change would require amendment of Rule 14a-6(i) [17 CFR 240.14a-6(i)] to provide that in addition to the fees set forth therein, issuers would be required to pay a fee for each security holder proposal included in its proxy material and for any other proposal that the issuer pursuant to Rule 14a-8(d) notifies the Commission it intended to omit from its proxy material.

[26] (c)(1)—the proposal is not a proper subject for action by security holders under the laws of the issuer's domicile; (c)(2) a proposal that, if implemented, would violate federal, state, or foreign law; (c)(5)—a proposal dealing with matters that are not significantly related to the issuer's business; (c)(6) a proposal dealing with matters beyond the issuer's power to effect; (c)(7)—a proposal dealing with matters relating to the conduct of the ordinary business of the issuer; (c)(12)—a proposal that is substantially the same as proposals voted on at a meeting of the issuer's security holders in the last five years and did not receive the required vote at those meetings; (c)(13)—a proposal relating to a specific amount of cash or stock dividends.

[27] (c)(3)—a proposal which is contrary to the Commission's proxy rules; (c)(4)—a proposal relating to the enforcement of a personal claim or grievance; (c)(8)—a proposal relating to an election to office; (c)(9)—a proposal that is counter to a proposal submitted by the issuer at the meeting; (c)(10)—a proposal that has been rendered moot; (c)(11)—a proposal which is substantially duplicative of a proposal previously submitted by another security holder for the same meeting.

[28] The substance of paragraph (c)(4) was incorporated into the security holder proposal rule in 1948. Release No. 34-4185 (November 5, 1948) [13 FR 6680]. In that release, the Commission noted:

* * * that in a few cases security holders have abused this privilege (the right to submit shareholder proposals) by using the rule to achieve personal ends which are not necessarily in the common interest of the issuer's security holder generally. In order to prevent such abuse of the rule,

Perhaps the most subjective provision and definitely the most difficult for the staff to administer, Rule 14a-8(c)(4) requires the staff to make determinations essentially involving the motivation of the proponent in submitting the proposal. In an effort to reduce the subjectivity inherent in paragraph (c)(4), the staff initially interpreted the provision very narrowly and required that the issuer, in order to justify the application of the provision, clearly demonstrate that the proposal under scrutiny relates to a personal claim or grievance. This gave rise to a requirement that the issuer show a direct relationship between the subject matter of a proposal and the proponent's personal claim or grievance. The staff determined that this requirement was met in those instances where the proposal or its supporting statement indicated on its face that a personal grievance existed. However, increasingly sophisticated proponents and their counsel began to draft proposals in broad terms so that they might be of general interest to all security holders, rather than in narrow terms reflecting the personal interests that motivated their submission. A contemporaneous development was the increased use of the security holder proposal process as a tool to bring pressure upon issuers to serve some personal interest of the proponent. These developments limited the efficacy of the staff's efforts to establish an objective test for determining the applicability of the rule and, consequently, a more subjective analysis has resulted. This more subjective analysis has been reflected in letters which indicated that a proposal, despite its being drafted in such a way that it might relate to matters which may be of general interest to all security holders, properly may be excluded under paragraph (c)(4), if it is clear from the facts presented by the issuer that the proponent is using the proposal as a tactic designed to redress a personal grievance or further a personal interest.

Rule Changes Under Consideration

The Commission has noted the complaints of issuers and proponents that the grounds for omission provided by paragraph (c)(4) are not sufficiently precise in the typical case as to be meaningful. To clarify the ambit of the Rule 14a-8(c)(4) exclusion, the Commission is considering a possible revision of the provision which would read as follows:

> If the proposal relates to the redress of a personal claim or grievance against the issuer or any other person, or represents an attempt to further a personal interest or if it is designed to result in a benefit to the proponent not shared with the other security holders at large.

Such a revision is intended to insure that the process will not be abused by proponents' attempting to achieve personal ends which are not necessarily in the common interest of the issuer's security holders generally. The discussion that follows addresses each of the separate provisions of the revised paragraph.

a. *Redress of a Personal Claim or Grievance.* In recent years, the staff has issued an increasing number of no-action letters with respect to the omission of proposals from proxy materials on this ground. Situations in which the staff has issued a no-action position under this provision include: (1) where the proposal directly related to the proponent's personal grievance;[29] and (2) where the proposal is of general interest to all security holders but the issuer demonstrated that it was submitted to redress a personal grievance.[30] In determining the availability of this portion of paragraph (c)(4) for omitting a proposal, it is incumbent upon an issuer to possess sufficient facts which demonstrate that the proposal was submitted in an attempt to redress a personal claim or grievance.

b. *Personal Interest.* Although this provision is not expressly included in the current version of the paragraph, the staff has recognized it as a basis for excluding a proposal under the rule. The history of the security holder proposal rule clearly indicates that proposals which attempt to further personal goals may be excluded from an issuer's proxy materials. Examples of proposals that the Commission has seen in the past which would be excluded under this provision include a request that the shareholders authorize the prosecution of all claims against the issuer raised in a complaint filed by the proponent,[31] requests to the issuer that it support certain litigation in which the proponent was involved,[32] and recommendations that shareholders of a utility pay the costs of nuclear power plant construction, rather than consumers, where the proponent was engaged in a campaign designed to reduce consumer rates.[33]

c. *Benefit to the Proponent Not Shared with Other Security Holders.* There has been an increase in the number of proposals used to harass issuers into giving the proponent some particular benefit or to accomplish objectives particular to the proponent. For example, there have been instances where the proponent appeared to be using the security holder proposal rule to force the issuer to buy back his securities at a premium price [34] or to subscribe to the proponent's publication.[35]

3. *Rule 14a-8(c)(5)—Not Significantly Related to the Issuer's Business.* Rule 14a-8(c)(5) permits issuers to omit from their proxy materials security holder proposals dealing with matters that are "not significantly related to issuer's business."[36] In interpreting the prior versions of this provision, the Commission and its staff have attempted to establish a viable objective standard for determining the circumstances under which the subject matter of a proposal would be deemed "significantly related." [37] The standard eventually developed by the staff based on economic significance of the subject matter of the proposal, however, gave

but without unduly restricting the privilege which it grants to security holders, the amendment places reasonable limitations upon the submission of such proposals.

[29] *See* letter to *Eastman Kodak*, dated January 18, 1978, where the proposal requested that the issuer reimburse the proponent for expenses incurred in the filming of a documentary which was allegedly lost by the company.

[30] In letters to *Time Inc.*, dated February 8, 1979, *RCA Corporation*, dated February 9, 1979, *Times Mirror*, dated February 28, 1979 and *Cox Broadcasting*, dated April 9, 1979, the staff issued no-action letters where the facts indicated that the proponent was using the security holder proposal process to redress a personal grievance it had against the issuers for adverse publicity that the proponent had received.

[31] Letter to *C. I. Mortgage Group*, dated March 13, 1981.

[32] Letter to *American General Corporation*, dated February 12, 1982, *Connecticut General Corporation*, dated February 12, 1982, and *Equitable of Iowa Companies*, dated February 2, 1982.

[33] Letters to *Long Island Lighting Company*, dated February 2, 1981 and February 24, 1982.

[34] Letters to *Cummings Inc.*, dated February 6, 1980, and *Ingersoll-Rand*, dated February 23, 1978.

[35] Letter to *Armco Inc.*, dated January 29, 1980, and reconsidered March 5, 1980.

[36] The origin of this provision can be traced to Release No. 34-4775 (December 11, 1952) [17 FR 11431] wherein Rule 14a-8 was amended to provide that a security holder proposal may be omitted from an issuer's proxy material if it was submitted "primarily for the purpose of promoting general economic, political, racial, religious, social or similar causes." This provision became paragraph (c)(2)(ii) of Rule 14a-8 in 1973 and provided for the omission of any security holder proposal which "[c]onsists of a recommendation, request or mandate that action be taken with respect to any matter, including a general economic, political, racial, religious, social, or similar cause, that is not significantly related to the business of the issuer or is not within the control of the issuer." Release No. 34-9784 (September 22, 1972) [37 FR 32179].

[37] In absolute numbers, however, the provision was only considered in a limited number of cases in the period from 1973 through 1976.

rise to a great deal of controversy. That controversy began in 1976 in connection with the activities of the American Jewish Congress ("AJC"). The AJC submitted resolutions to more than 150 companies requesting reports on company policy regarding compliance with the Arab nations' economic boycott of Israel. In responding to the numerous no-action requests of companies who received the AJC proposals, the staff, after consulting with the Commission, utilized for the first time an economic significance test. In a series of letters, the staff agreed to the omission of these proposals where issuers would establish that their business with Arab countries and Israel constituted less than one percent of the company's sales, assets and earnings (the so-called "one percent test").[38] Many persons argued, however, that the one percent which may have a significant impact on the corporation, and because, in effect, it prevented security holders from raising questions if the corporation had a large sales volume.[39]

On the other hand, many other persons favored the one percent test and sought to have the Commission incorporate the standard in Rule 14a-8. It was their view that the Commission should revise the provision to permit omission of matters which did not have a significant economic relationship to the issuer's business. As part of its revisions to Rule 14a-8 in 1976, the Commission considered such an amendment and, in deciding not to add the word "economic" to the existing provision, stated:

In this regard, the Commission does not believe that (c)(5) should be hinged solely on the economic relativity of a proposal, since there are many instances in which the matter involved in a proposal is significant to an issuer's business, even though such significance is not apparent from an economic viewpoint. For example, proposals dealing with cumulative voting rights or the ratification of auditors in a sense may not be economically significant to an issuer's business but they nevertheless have a significance to security holders that would preclude their being omitted under this provision. And proposals relating to ethical issues such as political contributions also may be significant to the issuer's business, when viewed from a standpoint other than a purely economic one.[40]

The Commission, however, did go on to say that it "recognized that there are circumstances in which economic data may indicate a valid basis for omitting a proposal under this provision."[41]

These statements in the 1976 Release foreshadowed the end of the one percent test and laid the foundation for the current position of the Commission and its staff in interpreting rule 14a-8(c)(5).[42] Under current construction, where the subject matter of a proposal bears no economic relationship to the issuer's business, the staff has permitted the exclusion of the proposal under paragraph (c)(5).[43] In those situations, however, where the proposal has reflected social or ethical issues, rather than economic concerns, raised by the issuer's business, and the issuer conducts any such business, no matter how small, the staff has not issued a no-action letter with respect to the omission of the proposal pursuant to paragraph (c)(5).

Rule Changes Under Consideration

Although the Commission believes that a totally objective standard for determining the availability of paragraph (c)(5) for the omission of a proposal is not feasible, it does appear that the staff's existing interpretation of Rule 14a-8(c)(5) may unduly limit the exclusion. Recognizing that economic data is useful in determining the significance of a matter to the issuer's business in many cases, the Commission is considering revising Rule 14a-8(c)(5) to incorporate economic factors.

For example, under this approach, Rule 14a-8(c)(5) might read as follows:

If the proposal relates to operations which account for less than 5% of the issuer's gross assets at the end of its most recent fiscal year, and for less than 5% of its gross earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the issuer's business.

Under such a revised paragraph (c)(5) a proposal would not be excludable, notwithstanding its failure to reach the specified economic thresholds, if a significant relationship to the issuer's business is demonstrated on the face of the resolution or supporting statement. Historically, the Commission staff has taken the position that certain proposals, while relating to only a small portion of the issuer's operations, raise policy issues of significance to the issuer's business.[44] Where the significant relationship is not immediately apparent on the face of the proponent's submission, the proponent, as in the past, could demonstrate the significant relationship supplementally. For example, the proponent could provide information that indicates that while a particular corporate policy which involves an arguably economically insignificant portion of an issuer's business, the policy may have a significant impact on other segments of the issuer's business or subject the issuer to significant contingent liabilities.

The Commission invites specific comment on such a revision to the rule as well as on an appropriate level of the percentage test to be used therein.

4. *Rule 14a-8(c)(7)—Ordinary Business Operations.* Under paragraph(c)(7) an issuer is permitted to omit a security holder proposal relating to the conduct of the "ordinary business operations of the issuer."[45] This

[38] *See, e.g.,* letters to *American Home Products* dated May 4, 1975 and *International Business Machines Corporation,* dated May 4, 1975.

[39] Still other persons believed that the one percent test contravened *Medical Committee for Human Rights v. SEC,* 432 F.2d 659, 800 (D.C. Cir. 1970), vacated for mootness, 404 U.S. 403 (1971), which such persons suggest indicates that shareholders are entitled to be concerned about social policy questions which have little economic impact on the issuer.

[40] Release No. 34-12999 (November 22, 1976)[41 FR 52994].

[41] *Id.*

[42] In 1978, Citicorp and Motorola, Inc. each requested a no-action position with respect to shareholder proposals relating to their activities in South Africa. In each case, the issuer provided information in support of the fact that their business activities in South Africa amounted to less than one percent of their business. In rejecting the companies' reliance on Rule 14a-8(c)(5), the staff, with the concurrence of the Commission, cited the consideration raised in the 1976 release. *See* letters to *Citicorp* and *Motorola, Inc.,* dated February 23, 1978.

[43] *See, e.g.,* letter to *Arvin Industries, Inc.,* dated February 8, 1979, wherein the staff permitted the exclusion of a proposal which sought information on sales to South Africa and the company had no such sales.

[44] *See, e.g.* letters to *Long Island Lighting Company,* dated February 11, 1980 (cease further development, planning and construction of nuclear power plants); *Owens-Illinois Inc.,* dated February 15, 1980 (liquidate the assets of the company that are located in the Republic of South Africa); and *American Home Products Corporation,* dated February 13, 1978 (changes in the company's marketing and distribution of infant formula products).

Note, however, that when the proposal relates to an area in which the issuer has no involvement, the proposal is omittable under paragraph (c)(5).

[45] Former SEC Chairman J. Sinclair Armstrong explained the reasons underlying the provision as follows:

"The policy motivating the Commission adopting the rule * * * is basically the same as the underlying policy of most State corporation, laws to confine the solution of ordinary business problems to the board of directors and place such problems beyond the competence and direction of the shareholders. The basic reason for this policy is that it is manifestly impracticable in most cases for stockholders to decide management problems at corporate meetings."

See Hearing on SEC Enforcement Problems Before the Subcommittee of the Senate Committee on Banking & Currency, 85th Cong., 1st Sess. part 1. at 119 (1957).

[46] Prior to 1954, many of the proposals included in proxy statements related to ordinary business operations, despite the presence of state laws which generally provided that the business and affairs of corporations shall be managed by their board of

provision is based on the requirements of most state laws that the business affairs of the corporation be conducted "by" or "under the direction of" the board of directors.[46] State law precedent, however, is rarely conclusive as to what is or is not ordinary business, and the staff generally has had to make its own determination as to whether a proposal involves an activity relating to the issuer's ordinary business.

Interpretive Changes Under Consideration

The major objection to the current interpretations under paragraph (c)(7) relates to the staff's refusal to apply the exclusion to a proposal that either requests that the issuer prepare and disseminate a report to shareholders or recommends that a special committee be formed to examine a particular area of the issuer's business where the subject matter of the report or of the examination is a matter involving the "ordinary business of the issuer." The basis for the staff's position rests on the premise that issuers do not prepare and issue reports on specific matters to shareholders or form committees to study particular aspects of its business as part of their ordinary business operations.[47] A number of commentators, however, have objected to this interpretation as raising form over substance. The Commission is considering whether it would be more appropriate to consider in each instance whether the type of information sought by the proposal involves the ordinary business operations of the issuer and to disregard whether a proposal requests the preparation and distribution of a report or the formation of a special committee.

5. *Rule 14a-8(c)(10)—Mootness.* A security holder proposal may be omitted from an issuer's proxy materials pursuant to paragraph (c)(10) if it has been rendered moot. Whether a proposal is moot involves a factual determination to be made on a case by cases basis.

Interpretive Changes Under Consideration

The staff has granted no-action requests pursuant to paragraph (c)(10) only in those circumstances where the action requested by the proposal already had been "fully" effected. As a result of this interpretation proponents have argued successfully on numerous occasions that a proposal may not be excluded as moot in cases where the company has taken most but not all of the actions requested by the proposal because the proposal has not been "fully" effectuated.

As a means of eliminating this problem, the Commission is considering revising its interpretation of paragraph (c)(10) to permit the omission of a proposal as moot if the issuer has "substantially" implemented the action requested by the proposal. While the subjectivity of such an interpretation of paragraph (c)(10) may raise further interpretive problems, the Commission believes that the current interpretation may not serve the interests of the issuer's security holders at large and may lead to an abuse of the security holder proposal process.

Other Issues

A further interpretative issue has been raised under paragraph (c)(10) as to whether a precatory resolution requesting that the issuer's board of directors consider a certain action should be deemed to be rendered moot if the board, in good faith, considers and rejects the subject matter of the proposal. The Commission invites comments on the appropriateness of introducing such an interpretation.

6. *Rule 14a-8(c)(12)—Resubmission of Proposals Included in Prior Years.* Paragraph (c)(12) provides that a proposal submitted by a security holder may be omitted from an issuer's proxy soliciting materials for three years following the inclusion in the issuer's proxy material of a proposal that is substantially the same and that failed to recieve a specified minimum percentage of the votes cast in regard thereto.[48] A proposal may be so omitted if it received less than 3 percent of the vote the first time it was considered, less than 6 percent the second time, or less than 10 percent thereafter. The purpose of the provision is to provide issuers with a means to avoid having to continue to bear the cost of including proposals that have generated little interest when previously presented to the security holders.

This has been and continues to be one of the more controversial provisions of the rule. Historically, the staff has interpreted the phrase "substantially the same proposal" to mean one which is virtually identical (in form as well as substance) to a proposal previously included in the issuer's proxy materials. Issuers have complained that as a result of this interpretation, the provision has not accomplished its stated purpose. Critics of the staff's interpretation argue that proponents are able to evade the strictures of paragraph (c)(12) by simply recasting the form of the proposal, expanding its coverage, or by otherwise changing its language in a manner that precludes one from saying that the proposal is identical to a prior proposal. In recognition this problem, the Commission proposed, in 1976, to revise Rule 14a-8(c)(12) to change the test for excluding a proposal under the provision from "substantially the same" to "substantially the same subject matter." After considering extensive public comment,[49] the Commission determined not to adopt the proposed revision at that time.

While rejecting the proposed revision of paragraph (c)(12), the Commission expressed concern about possible abuses of the rule. As a result, a second test for exclusion was announced as an interpretative matter. This test allows the omission of a proposal that, although not substantially the same as any one proposal submitted in a prior year, is composed essentially of the elements of two or more proposals that were submitted for a vote in prior years and failed to recieve the percentage of total vote specifed in the rule. The second test has been the subject of a number of no-action requests.[50] As with the first

directors. In an effort to provide more guidance in this area, the Commission amended the security holder proposal rule to permit the exclusion of proposals relating to ordinary business. Release No. 34-4979 (January 6, 1954) [19 FR 246].

[47] For example, the staff, in a letter to *Castle & Cooke*, dated December 12, 1978, agreed with the company that a proposal requesting that it alter its food production methods in underdeveloped countries could be excluded under Rule 14a-8(c)(7) since the proposal specified the steps management should take to implement the action requested by the proposal. In 1980, however, the proponent instead asked the company to appoint a committee to review foreign agricultural operations with emphasis on the balance between labor and capital intensive production. The staff refused to apply the rule to this provision because the appointment of a special committee to study the company's foreign agricultural operations is a matter of policy. *See* letter to *Castle & Cooke*, dated December 14, 1979.

[48] A requirement that substantially the same proposal may not be resubmitted to an issuer unless the proposal received a specified minimum percentage of votes upon its most recent submission was initially adopted in 1948. *See* Release No. 34-4114 (July 6, 1948) [13 FR 3973]. In 1953, the provision was amended to its current format and designated as Rule 14a-8(c)(4). *See* Release No. 34-4950 (October 9, 1953) [18 FR 6646].

[49] The commentators expressed the following views: (1) abuses of the existing provision have been rare and do not justify the type of radical revision proposed; (2) that the new standard would be almost impossible to administer because of the subjective determinations that would be required under it; and (3) that it would unduly constrain shareholder sufferage because of its possible "umbrella" effect (*i.e.*, it could be used to omit proposals that had only a vague relation to the subject matter of a prior proposal that received little shareholder support). *See* 1976 Release.

[50] For examples of instances where proposals were considered to be excludable under the alternate test, *see*, *Texaco Inc.*, dated January 31, 1980; *Standard Oil of California*, dated February 12, 1980; *Mobil Corporation*, dated March 2, 1981; and

test, however, the staff has been criticized for its restrictive application.

Rule Changes Under Consideration

Despite the fact that the alternative test has proved effective in controlling some of the more flagrant abuses of Rule 14a-8(c)(12), the incidence of abuse of the existing provision and the existing interpretations thereunder continues to grow. It is the Commission's perception that, contrary to the rule's stated objective, security holders of a number of issuers are being called upon to vote ove and over again on issues in which they have shown little interest. Accordingly, the Commission is considering amendment of Rule 14a-8(c)(12).

The revision being considered is identical to the one proposed by the Commission in 1976 and would provide for the omission of a proposal if it "deals with substantially the same subject matter as a proposal previously submitted to security holders * * *." While the Commission is well aware of the arguments advanced in opposition to the proposal in 1976, it is concerned about the increase in the abuse of existing provision.

The Commission is not currently considering any change in the alternative interpretative test for exclusion.

Other Issues

From time to time, the Commission has received suggestions from proponents and issuers alike that the percentage tests reflected in Rule 14a-8(c)(12) should be revised. The Commission is requesting comment on the question of the appropriate levels for the percentage tests.

7. *No-Action Procedures.* The Commission also is requesting comment on the advisability of eliminating the Commission staff's administrative role in the current process and discontinuing the issuance of no-action letters under Rule 14a-8. Under such revision in the process, an issuer would proceed wholly at its own risk if it chose to delete a proposal. In the event a proposal was inappropriately excluded, the issuer could be sued by either the proponent or the Commission.

An alternative to eliminating the no-action letter procedure with respect to the entire rule could be to discontinue their issuance with respect to paragraphs (c)(1) [51] and (c)(2) [52] as to which the Commission staff requires an opinion of counsel and paragraphs (a)(4) [53] and (c)(4) [54] which generally require an investigation of the underlying facts. The applicability of paragraphs (c)(1) and (c)(2) to a particular proposal is a matter entirely based on the state, federal or foreign law cited by counsel for the issuer or the proponent in connection with the proposal. It has been suggested that because the Commission's staff may have no particular expertise with respect to the statutory provisions cited by counsel, it is the court, and not the staff, that are the appropriate forum for resolving disputes as to the legality under state, federal (other than securities laws) and foreign law of an action that is the subject of a security holder proposal.

The problems for the staff in dealing with paragraphs (a)(4) (c)(4) are of a different nature from those involved in interpreting paragraphs (c)(1) and (c)(2). The applicability of paragraphs (a)(4) and (c)(4) depends almost entirely upon a factual determination that in most cases requires an investigation of the surrounding facts and circumstances which the Commission staff is not a position to undertake. Accordingly, it has been suggested that these are areas better left to the issuer and the proponent, and where necessary to the courts, to resolve.

The Commission requests specific comment as to whether, if Rule 14a-8 is retained, it would be appropriate and in the public interest to discontinue to issue no-action letters with respect to: (1) all exclusions of proposal, whatever the basis cited for exclusion; or (2) only exclusions based on paragraphs (a)(2), (c)(1), (c)(2), and (c)(4). In requesting comment on the advisability of the use of this procedure, the Commission is particularly interested in commentators' views with respect to the practicality of resorting to the courts to resolve disputes and the cost to proponents and issures of such a change in the Commission's procedures.

The Commission also also requests commentators' views as to whether, if the staff were to discontnue issuance of such letters, it would be appropriate to discontinue requiring issuers to furnish the Commission with the Rule 14a-8(d) information with respect to exclusions as to which the Commission staff has discontinued issuing no-action letters. [55]

C. Procedural Requirements for Issuers

Paragraph (d) of Rule 14a-8 specifies the procedural requirements applicable to issuers that intend to omit security holder proposals from their proxy materials. The provision requires the issuer to notify the Commission and the proponent at least 50 days prior to the date that its preliminary proxy materials will be filed of its intention to omit a proposal and/or supporting statement.

Rule Changes Under Consideration

The Commission is considering whether to revise paragraph (d) to increase the deadline for issuers to submit materials from 50 days in advance of the filing date for preliminary materials to 60 days prior to such date. As previously noted in the discussion of paragraph (a)(3) relating to the timeliness requirement for proponents, this change is being considered in conjunction with a 30-day advance in the deadline date for proponents' submission of proposals in order to give issuers and the Commission staff more time to deal with the increased number and complexity of the security holder proposals being submitted.

Text of Alternative Revised Rule 14a-8

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is proposed to be amended as set forth below:

List of Subjects in 17 CFR Part 240

Reporting requirements; Securities.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 240—[AMENDED]

1. By revising Rule 14a-8, § 240.14a-8, to read as follows:

Note.—Brackets indicate deletions and arrows indicate additions.

Proposal I

§ 240.14a-8. Proposals of security holders.

(a) If any security holder of an issuer notifies the issuer of his intention to

American Home Products, dated March 4, 1982. For examples of instances where the staff disagreed with the issuers intention to omit a proposal under the alternative test, *see Newmont Mining Corp.*, dated March 29, 1977; *Del Monte Corporation*, dated February 26, 1981; and *Abbott Laboratories*, dated March 3, 1982.

[51] Exclusion of proposals not proper for security holder action.

[52] Exclusion of proposals requiring issuer to violate state, federal or foreign law.

[53] Limitation of number of proposals per proponent.

[54] Exclusion of proposals relating to a personal grievance.

[55] Pursuant to Rule 14a-8(d), the issuer must provide the Commission with five copies of: (1) the proposal; (2) the proponent's supporting statement; (3) a statement of the reasons why the issuer deems omission to be proper; and (4) where such reasons are based on matters of law, a supporting opinion of counsel.

Under either approach, the issuer still would be required to provide the information specified by subparagraph (d), including the opinion of counsel, to the proponent.

present a proposal for action at a forthcoming meeting of the issuer's security holders, the issuer shall set forth the proposal in its proxy statement and identify it in its form of proxy and provide means by which security holders can make the specification required by Rule 14a-4(b) [17 CFR 240.14a-4(b)]. Notwithstanding the foregoing, the issuer shall not be required to include the proposal in its proxy statement or form of proxy unless the security holder (hereinafter, the "proponent") has complied with the requirements of this paragraph and paragraphs (b) and (c) of this Section:

(1) *Eligibility.* (i) At the time he submits the proposal, the proponent shall be a record or beneficial owner of [a security] ►at least 1% or $1,000 in market value of securities◄ entitled to be voted at the meeting on his proposal, ►and have held such securities for at least one year at the time he submits the proposal◄, and he shall continue to own such securities through the date on which the meeting is held. If the issuer requests documentary support for a proponent's claim that he is a beneficial owner of ►at least $1,000 in market value of◄ such voting securities of the issuer ►or that he has been a beneficial owner of the securities for one or more years►, the proponent shall furnish appropriate documentation within [10 business days] ►14 calendar days◄ after receiving the request. In the event the issuer includes the proponent's proposal in its proxy soliciting materials for the meeting and the proponent fails to comply with the requirement that he continuously hold such securities through the meeting date, the issuer shall not be required to include any proposals submited by the proponent in its proxy materials for any meeting held in the following two calendar years.

(ii) ►Proponents who participate in a general proxy solicitation through the use of written proxy soliciting materials with respect to the same meeting of security holders will be ineligible to use the provisions of Rule 14a-8 for the inclusion of the proposal in the issuer's proxy soliciting materials. In the event the issuer includes a proponent's proposal in its proxy materials and the proponent thereafter engages in a proxy solicitation with respect to such meeting, the issuer shall not be required to include any proposals submitted by that proponent in its proxy soliciting materials for any meeting held in the following two calendar years.◄

(2) *Notice ►and Attendance at the Meeting◄.* [The proponent shall notify the issuer in writing of his intention to appear personally at the meeting to present his proposal for action. The proponent shall furnish the requisite notice at the time he submits the proposal, except that if he was unaware of the notice requirement at that time, he shall comply with it within 10 business days after being informed of it by the issuer. If the proponent, after furnishing in good faith the notice required by this provision, subsequently determines that he will be unable to appear personally at the meeting, he shall arrange to have another security holder of the issuer present his proposal on his behalf at the meeting.] ►At the time he submits a proposal, a proponent shall provide the issuer in writing with his name, address, the number of the issuer's voting securities that he holds of record or beneficially and the dates upon which he acquired such securities. A proposal may be presented at the meeting either by the proponent or his representative who is qualified under state law to present his proposal on the proponent's behalf at the meeting.◄ In the event that the proponent or his representative fails, without good cause, to present the proposal for acton at the meeting, the issuer shall not be required to include any proposals submitted by the proponent in its proxy soliciting material for any meeting held in the following two calendar years.

(3) *Timeliness.* The proponent shall submit his proposal sufficiently far in advance of the meeting so that it is received by the issuer within the following time periods:

(i) *Annual Meetings.* A proposal to be presented at an annual meeting shall be received at the issuer's principal executive offices not less than [90] ►120◄ days in advance of the date of the issuer's proxy statement released to security holders in connection with the previous year's annual meeting of security holders, except that if no annual meeting was held in the previous year or the date of the annual meeting has been changed by more than 30 calendar days from the date contemplated at the time of the previous year's proxy statement, a proposal shall be received by the issuer a reasonable time before the solicitation is made.

(ii) *Other Meetings.* A proposal to be presented at any meeting other than an annual meeting ►specified in paragraph (a)(3)(i) of this section◄ shall be received a reasonable time before the solicitation is made.

Note.—In order to curtail controversy as to the date on which a proposal was received by the issuer, it is suggested that proponents submit their proposals by Certified Mail—Return Receipt Requested.

(4) *Number and Length of Proposals.* The proponent may submit a maximum of [two proposals of not more than 300 words each] ►one proposal and an accompanying supporting statement◄ for inclusion in the issuer's proxy materials for a meeting of security holders. If the proponent [fails to comply with either of these requirements or if he fails to comply with the 200-word limit on supporting statements mentioned in paragraph (b)] ►submits more than one proposal, or if he fails to comply with the 500 word limit mentioned in paragraph (b) of this section,◄ he shall be provided the opportunity to reduce [within 10 business days] the items submitted by him to the limits required by this rule, ►within 14 calendar days of notification of such limitations by the issuer.◄

(b) ►(1) *Supporting Statement.◄* [If the issuer opposes any proposal received from a proponent, it should also, at the request of the proponent, include in its proxy statement a statement of the proponent of not more than 200 words in support of the proposal, which statement shall not include the name and address of the proponent.] ►The issuer, at the request of the proponent, shall include in its proxy statement a statement of the proponent is support of the proposal, which statement shall not include the name and address of the proponent. A proposal and its supporting statement, in the aggregate shall not exceed 500 words.◄ The supporting statement shall be furnished to the issuer at the time that the proposal is furnished, and the issuer shall not be responsible for such statement and the proposal to which it relates.

►(2) *Identification of Proponent.◄* The proxy statement shall also include either the name and address of the proponent► and the number of shares of the voting security held by the proponent◄ or a statement that such information will be furnished by the issuer [or by the Commission] to any person, orally or in writing as requested, promptly upon the receipt of any oral or written request therefor. [If the name and address of the proponent are omitted from the proxy statement, they should be furnished to the Commission at the time of filing the issuer's preliminary proxy material pursuant to Rule 14a-6(a) [17 CFR 240.14a-2(a).]

(c) The issuer may omit a proposal and any statement in support thereof from its proxy statement and form of proxy under any of the following circumstances:

(1) If the proposal is, under the laws of the issuer's domicile, not a proper subject for action by security holders.

Note.—A proposal that may be improper under the applicable state law when framed as a mandate or directive may be proper when framed as a recommendation or request.

(2) If the proposal, if implemented, would require the issuer to violate any state law or federal law of the United States, or any law of any foreign jurisdiction to which the issuer is subject, except that this provision shall not apply with respect to any foreign law compliance with which would be violative of any state law or federal law of the United States.

(3) If the proposal or the supporting statement is contrary to any of the Commission's proxy rules and regulations, including Rule 14a-9 [17 CFR 240.14a-9], which prohibits false or misleading statements in proxy soliciting materials;

(4) If the proposal relates to the [enforcement of a personal claim or the redress of a personal grievance against the issuer or any other person.] ►redress of a personal claim or grievance against the issuer of any other person, or represents an attempt to further a personal interest, or if it is designed to result in a benefit to the proponent not shared with the other security holders at large;◄

(5) [If the proposal deals with a matter that is not significantly related to the issuer's business;] ►If the proposal relates to operations which account for less than 5% of the issuer's gross assets at the end of its most recent fiscal year, and for less than 5% of its gross earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the issuer's business;◄

(6) If the proposal deals with a matter that is beyond the issuer's power to effectuate;

(7) If the proposal deals with a matter relating to the conduct of the ordinary business operations of the issuer;

(8) If the proposal relates to an election to office;

(9) If the proposal is counter to a proposal to be submitted by the issuer at the meeting;

(10) If the proposal has been rendered moot;

(11) If the proposal is substantially duplicative of a proposal previously submitted to the issuer by another proponent, which proposal will be included in the issuer's proxy material for the meeting;

(12) [If substantially the same proposal has previously been.] ►If the proposal deals with substantially the same subject matter as a prior proposal◄ submitted to security holders in the issuer's proxy statement and form of proxy relating to any annual or special meeting of security holders held within the preceding 5 calendar years, it may be omitted from the issuer's proxy materials relating to any meeting of security holders held within 3 calendar years after the latest such previous submission:

Provided, That

(i) If the proposal was submitted at only one meeting during such preceding period, it received less than 3 percent of the total number of votes cast in regard thereto; or

(ii) If the proposal was submitted at only two meetings during such preceding period, it received at the time of its second submission less than 6 percent of the total number of votes cast in regard thereto; or

(iii) If the prior proposal was submitted at three or more meetings during such preceding period, it received at the time of its latest submission less than 10 percent of the total number of votes cast in regard thereto; and

(13) If the proposal relates to specific amounts of cash or stock dividends.

(d) Whenever the issuer asserts, for any reason, that a proposal and any statement in support thereof received from a proponent may properly be omitted from its proxy statement and form of proxy, it shall file with the Commission, not later than [50] ►60◄ days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to Rule 14a-6(a) [17 CFR 240.14a-6(a)], or such shorter period prior to such date as the Commission or its staff may permit, five copies of the following items: (1) the proposal; (2) any statement in support thereof as received from the proponent; and (3) a statement of the reasons why the issuer deems such omission to be proper in the particular case; and (4) where such reasons are based on matters of law, a supporting opinion of counsel. The issuer shall at the same time, if it has not already done so, notify the proponent of its intention to omit the proposal from its proxy statement and form of proxy and shall forward to him a copy of the statement of reasons why the issuer deems the omission of the proposal to be proper and a copy of such supporting opinion of counsel.

(e) If the issuer intends to include in the proxy statement a statement in opposition to a proposal received from a proponent, it shall, not later than ten calendar days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to Rule 14a-6(a), or, in the event that the proposal must be revised to be includable, not later than five calendar days after receipt by the issuer of the revised proposal promptly forward to the proponent a copy of the statement in opposition to the proposal.

In the event the proponent believes that the statement in opposition contains materially false or misleading statements within the meaning of Rule 14a-9 and the proponent wishes to bring this matter to the attention of the Commission, the proponent should promptly provide the staff with a letter setting forth the reasons for this view and at the same time promptly provide the issuer with a copy of such letter.

Security Holder Proposal Plans—Proposal II

The rule set forth as Proposal II would be in addition to whatever rule the Commission adopts specifying the procedures generally applicable to security holders' proposals, and would permit an issuer and its security holders to adopt their own procedures governing security holders' access to the issuer's proxy statement. As noted in the release, the Commission believes that even under such approach, it would be appropriate to provide certain limitations on the provisions permitting ommission of security holder proposals. While Proposal II includes certain such limitations, it does so prinicipally by way of example, and commentators are invited to provide suggestions as to other limitations to be incorporated in such a rule. The Commission specifically requests the views of the commentators as to whether the size of the proponent's investment in the issuer should be a basis upon which to delimit permissible eligibility criteria.

Text of New Rule 14a-8A

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. By adopting a new Rule 14a-8A, § 240.14a-8A, to read as follows:

§ 240.14a-8A. Proposals of security holders.

(a) An issuer's security holders may adopt a written plan that specifies the procedures to be followed by a security holder (hereinafter the "proponent"), who intends to present a proposal for action at a forthcoming meeting of the issuer's security holders and who requests the issuer to set forth the

proposal in its proxy statement and identify it in its form of proxy and provide means by which security holders can make the specification required by Rule 14a-8(b) [17 CFR 240.14a-4(b)], and the procedures to be followed by the issuer with respect to such request:

(1) Such plan must be approved by at least a majority of the outstanding voting securities of the issuer prior to its adoption by the issuer.

(2) Changes to the plan must be approved by at least a majority of the outstanding voting securities of the issuer prior to their adoption.

(3) Continuation of the plan must be approved by at least a majority of the outstanding voting securities of the issuer not less than once every five calendar years from its initial adoption.

(4) Security holders entitle to vote on the plan may initiate such plan or any amendments thereto, which plan or amendment shall be effective if approved by at least a majority of the outstanding voting securities of the issuer.

(b) Subject to the following limitations, the plan may establish procedural requirements for the submission of proposals:

(1) The plan may require that a proponent own of record or beneficially at least a specified number of, or value of, voting securities of the issuer, and/or have held such securities for at least a specified period of time, provided that no such criteria shall have the effect of precluding the submission of a proposal by a proponent(s) who owns at least 1% or $5,000 in market value (as of the close of any day in the 60 days preceding submission of the proposal) of securities entitled to be voted at the meeting on the proposal. The plan may include reasonable provisions for documentation by proponents of their eligibility under the plan to submit a proposal.

(2) The plan may establish deadlines and procedures for the submission to the issuer of security holder proposals. The plan shall not require the submission of a proposal more than 120 days prior to the annual meeting, nor more than 15 days prior to the filing with the Commission of the preliminary proxy statement relating to a special meeting of security holders.

(3) The plan shall provide a proponent with at least 500 words for each proposal and statement in support thereof to be included in the issuer's proxy statement.

(c) The plan may provide that a proposal may be omitted from the issuer's proxy statement and form of proxy under any one or more of the following circumstances, and the plan may include reasonable definitions and criteria to govern the application of these bases for omission:

(1) If the proposal is, under the laws of the issuer's domicile, not a proper subject for action by security holders;

(2) If the proposal, as implemented, would require the issuer to violate any state law or federal law of the United States, or any law of any foreign jurisdiction to which the issuer is subject, except that this provision shall not apply with respect to any foreign law compliance with which would be violative of any state law or fedral law of the United States;

(3) If the proposal relates to a personal grievance, provided that if an issuer plan contains such a provision before a secutity holder proposal is omitted on such basis the issuer must comply with the provisions of Rule 14A-8(d) in connection with such proposal;

(4) If the proposal deals with a matter that is not significantly related to the issuer's business; the plan may include a reasonable definition of "significantly related" that may include economic criteria;

(5) If the proposal deals with a matter that is beyond the issuer's power to effectuate;

(6) If the proposal deals with a matter relating to the conduct of the ordinary business operations of the issuer;

(7) If the proposal relates to an election to office;

(8) If the proposal is counter to a proposal to be submitted by the issuer at the meeting;

(9) If the proposal has been rendered moot;

(10) If the proposal is substantially duplicative of a proposal previously submitted to the issuer by another proponent, which proposal will be included in the issuer's proxy material for the meeting;

(11) If the proposal deals with substantially the same subject matter as a prior proposal submitted to security holders in the issuer's proxy statement and form of proxy relating to any meeting of security holders held within the preceding 5 calendar years, which prior proposal failed to be approved by security holders; or

(12) If the proposal relates to specific amounts of cash or stock dividends.

(d) The plan shall provide that the issuer shall notify the proponent(s), at least 10 days prior to the date of filing with the Commission of its preliminary proxy statement and form of proxy pursuant to Rule 14a-6(a) [17 CFR 240.14a-6(a)], of its intention to omit the proposal from its proxy statement and that such notification shall include a statement of the reason the issuer deems such omission to be proper in the particular case and where such reasons are based on matters of law, a supporting opinion of counsel.

(e) An issuer that has not adopted a plan pursuant to paragraph (a) of this section or that fails to have the plan reapproved as provided in paragraph (a) of this section, shall comply with Rule 14a-8 with respect to proposals submitted by security holders for inclusion in the issuer's proxy statement.

IV. Simplification in Regulation—Proposal III

As noted in the release, if the Commission determines that there should continue to be a right of access to an issuer's proxy statement under the Exchange Act, it is interested in considering alternatives to its current rule. As further noted, one such alternative would be to require all companies subject to Section 14 of the Exchange Act to include in their proxy material any security holder proposal that is proper under state law for action by security holders so long as such proposal did not relate to the election of the issuer's directors. The Commission anticipates that the elimination of eleven of the thirteen existing bases for omission would have the result that few proposals would be excludable on substantive grounds. The limited disputes with respect to the applicability of the remaining two grounds for exclusion generally would not be resolved by the Commission staff, but by the courts.

The principal limitation on the proposals to be incorporated would be numerical. For example, the rule could provide that an issuer would not be required to include more than five resolutions plus one additional proposal for each 100,000 record holders entitled to vote at the meeting in excess of 500,000, subject to a maximum of twelve proposals to be included. The order of receipt of the proposals would be irrelevant and duplicative proposals would be considered as one.

Where the proposals submitted exceed the maximum required to be included, preference would be given to the proposals submitted by proponents who have not had a proposal included in any of the issuer's proxy statements sent to security holders in the previous three years. Thus, if proposals submitted by these "new" proponents exceed the maximum required to be included, proposals would be selected by lot from those submitted by such "new" proponents. If the proposals of the

"new" proponents were less than the maximum required to be included then all such proposals would be included, and the remaining proposals would be selected by lot from those submitted by proponents who had had a proposal presented in the proxy statement in the prior three years.[56] Appropriate disclosure would be required in the proxy statement as to the mechanism of selection.

The proposed approach also would include a number of self-executing procedural requirements relating to the number and length of proposals and eligibility of proponents. One variation in the eligibility criteria should be noted. Under Proposal III, the number or value of voting securities required of the proponent(s), would be decreased in the event that a majority of an issuer's security holder each owned, of record, less than the amount specified in the rule. The amounts would be required to be decreased to the number and value that would permit at least a majority of the issuer's security holders to meet such criteria.

Text of Alternative Revised Rule 14a-8

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. By revising Rule 14a-8, § 240.14a-8 to read as follows:

Proposal III

§ 240.14a-8 Proposals of security holders.

(a) If any security holder of an issuer ("proponent") notifies the issuer of his intention to present a proposal for action at a forthcoming meeting of the issuer's security holders, the issuer shall set forth the proposal in its proxy statement and identify it in its form of proxy and provide means by which security holders can make the specification required by Rule 14a4(b) [17 CFR 240.14a-4(b)], subject to the limitations contained in this paragraph and paragraphs b and c of this section;

(1) At the time he submits the proposal, the proponent shall be a record or beneficial owner of at least 1% or $1,000 in market value of securities entitled to be voted at the meeting on his proposal, and have held such securities of the issuer for at least one year at the time he submits the proposal, and he shall continue to own such securities through the date on which the meeting is held, provided, however, if a majority of the issuer's security holders each own less than such amount of securities, the criteria contained in this section shall be decreased so that at least a majority of the security holders would be eligible to submit proposals. If the issuer requests documentary support for a proponent's claim that he meets the eligibility criteria, the proponent shall furnish appropriate documentation within 14 calendar days after receiving the request. In the event the issuer includes the proponent's proposal in its proxy soliciting materials for the meeting and the proponent fails to comply with the requirement that he continuously hold such securities through the meeting date, the issuer shall not be required to include any proposals submitted by the proponent in its proxy materials for any meeting held in the following five calendar years.

(2) At the time he submits a proposal, a proponent shall provide the issuer in writing with his name, address, the number of the issuer's voting securities that he holds of record or beneficially and the dates upon which he acquired such securities. A proposal may be presented at the meeting by either the proponent or his representative who is qualified under state law to present his proposal on the proponent's behalf at the meeting. In the event that the proponent or his representative fails, without good cause, to present the proposal for action at the meeting, the issuer shall not be required to include any proposals submitted by the proponent in its proxy soliciting materials for any meeting held in the following five calendar years.

(3) The proponent shall submit his proposal sufficiently far in advance of the meeting so that it is received by the issuer within the following time periods:

(i) A proposal to be presented at an annual meeting shall be received at the issuer's principal executive offices not less than 120 days in advance of the date of the issuer's proxy statement released to security holders, except that if no annual meeting was held in the previous year or the date of the annual meeting has been changed by more than 30 calendar days from the date contemplated at the time of the previous years' proxy statement, a proposal shall be received by the issuer a reasonable time before the solicitation is made.

(ii) A proposal to be presented at any meeting other than an annual meeting specified in paragraph (a)(3)(i) of this section shall be received a reasonable time before the solicitaton is made.

Note.—In order to curtail controversy as to the date on which a proposal was received by the issuer, it is suggested that proponents submit their proposals by Certified Mail—Return Receipt Requested.

(4) (i) The proponent may submit one proposal and an accompanying supporting statement for inclusion in the issuer's proxy materials for a meeting of security holders. If the proponent submits more than one proposal, or if he fails to comply with the 500 word limit mentioned in paragraph (b) of this section, he shall be provided the opportunity to reduce the items submitted by him to the limits required by this rule, within 14 calendar days of notification of such limitations by the issuer.

(ii) An issuer will not be required to include in its proxy materials for any meeting more than five security holder proposals plus one additional proposal for each 100,000 record holders entitled to vote at the meeting in excess of 500,000 subject to a maximum of twelve proposals to be included.

(iii) If the issuer receives more than the maximum number of proposals required to be included under paragraph (a)(4)(ii) of this section, the selection of those proposals to be included in the issuer's proxy statement will be made in the following manner:

(A) The issuer shall separate the proposals received into two groups; the first will include proposals received from proponents who have not had a proposal included in the issuer's proxy statements sent to security holders in the previous three years, and the second group will include all other proposals;

(B) If the number of proposals in the first group exceeds the maximum number of proposals required to be included under paragraph (a)(4)(ii) of this section, the proposals to be included will be determined by lot from among the proposals in such group;

(C) If the number of proposals in the first group is less than the maximum number of proposals required to be included under paragraph (a)(4)(ii) of

[56] For example, an issuer with less than 500,000 record owners would be required to include five proposals in its proxy statement. If it received three includable proposals from new proponents and four proposals from repeat proponents, the three proposals from new proponents would be required to be included and the issuer would then select the remaining two proposals required to be included to meet the maximum by lot from among the four proposals submitted by repeat proponents.

this section, then all such proposals will be included and an additional number of proposals will be selected by lot for inclusion from the second group to reach the required maximum.

(b)(1) The issuer, at the request of the proponent, shall include in its proxy statement a statement of the proponent in support of the proposal, which statement shall not include the name and address of the proponent. A proposal and its supporting statement, in the aggregate, shall not exceed 500 words. The supporting statement shall be furnished to the issuer at the time that the proposal is furnished, and the issuer shall not be responsible for such statement and the proposal to which it relates.

(2) The proxy statement also shall include either the name and address of the proponent and the number of voting securities of the issuer held by the proponent or a statement that such information will be furnished by the issuer to any person, orally or in writing as requested, promptly upon the receipt of any oral or written request therefor.

(c) The issuer may omit a proposal and any statement in support thereof from its proxy statement and form of proxy if:

(1) The proposal is, under the laws of the issuer's domicile, not a proper subject for action by security holders; or

Note.—A proposal that may be improper under the applicable state law when framed as a mandate or directive may be proper when framed as a recommendation or request.

(2) The proposal relates to the election of directors.

(d) Whenever the issuer asserts, for any reason, that a proposal and statement in support thereof received from a proponent may properly be omitted from its proxy statement and form of proxy, it shall notify the proponent, not later than 30 days prior to the date the preliminary copies of the proxy statement and form of proxy are filed with the Commission pursuant to Rule 14a-6(a) [17 CFR 240.14a-6(a)], a statement of the reasons why the issuer deems such omission to be proper and where such reasons are based on matters of law, a supporting opinion of counsel.

(e) If the issuer intends to include in the proxy statement a statement in opposition to a proposal received from a proponent, it shall, not later than ten calendar days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to Rule 14a-6(a), or, in the event that the proposal must be revised to be includable, not later than five calendar days after receipt by the issuer of the revised proposal, promptly forward to the proponent a copy of the statement in opposition to the proposal.

In the event the proponent believes that the statement in opposition contains materially false or misleading statement within the meaning of § 240.14a-9 and the proponent wishes to bring this matter to the attention of the Commission, the proponent should promptly provide the staff with a letter setting forth the reasons for this view and at the same time promptly provide the issuer with a copy of such letter.

Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed amendments published in Release No. 34-19135 (October 14, 1982) "Proposed Amendments to Rule 14a-8 Under the Securities Exchange Act of 1934 (the "1934 Act") Relating to Proposals by Security Holders," will not, if promulgated, have a significant economic impact on a substantial number of small entities. The first reason for such certification is that only a limited number of entities directly affected by the proposed amendments will be a "small business" or a "small organization" as defined in 17 CFR 240.0-10 because pursuant to 240.12g-1 issuers meeting the definition of "small business" or "small organization" are exempt from the registration requirement of Section 12(g)(1) of the 1934 Act and, thus, the rules and regulations under Section 14(a) of such Act are not applicable. In addition, it is not expected that a substantial number of small entities will be proponents of security holder proposals. A review of the contested security holder proposals processed by the Commission's staff in the period from October 1, 1980 to the present indicates that only two of the two hundred and sixty-two issuers making submissions under Rule 14a-8 would be classified as a "small business" as that term is defined in 17 CFR 240.0-10, and that only eight of the three hundred and nine proponents of those contested security holder proposals would be considered to be a "small business" or a "small organization" as defined in 17 CFR 240.0-10.

Dated: October 14, 1982.

John S. R. Rhad,

Chairman.

[FR Doc. 82-29012 Filed 10-25-82; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 81N-0312]

β-Carotene; Proposed Affirmation of GRAS Status as a Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that β-carotene is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under a comprehensive safety review conducted by the agency. The proposeal would take no action on the listing of this ingredient as a GRAS substance for use in dietary supplements.

DATE: Comments by December 27, 1982.

ADDRESS: 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: Susan Thompson, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, D.C.. 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of β-carotene has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of this ingredient for use as a nutrient supplement in conventional food [1] and infant formula.

The GRAS status of the use of β-carotene in dietary supplements (i.e., over-the-counter vitamin preparations in forms such as capsules, tablets, liquids, wafers, etc.) is not affected by this proposal. The agency did not request consumer exposure data on dietary supplement uses when it initiated this review. Without exposure data, the agency cannot evaluate the safety of using this ingredient in dietary supplements. The use of this ingredient in dietary supplements will continue to

[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

be permissible under Subpart F of Part 182 (21 CFR Part 182).

Carotenes are aliphatic or aliphatic-alicyclic hydrocarbons composed of eight isoprene groups in which a series of conjugated double bonds form a chromophoric system. Carotenes and their oxygen derivatives (apocarotenoids) constitute the carotenoids, a class of compounds widely distributed in nature and responsible for much of the yellow, orange, and red coloration of plants. They are involved in the photosynthetic processes of plants and exert a protective effect on chlorophyll. Some carotenoids also serve as precursors for vitamin A, an essential nutrient for man. β-Carotene ($C_{40}H_{56}$), which has the highest provitamin A activity, consists of two vitamin A moieties symmetrically linked at their terminal side-chain carbons. Vitamin A activity in foods has been expressed as international units (IU), 1.0 IU being equivalent to 0.3 μg vitamin A (retinol) or 0.6 μg β-carotene. Vitamin A activity can also be expressed as "retinol equivalents." By definition, 1.0 retinol equivalent equals 1 μg retinol, 6 μg carotene, or 10 IU β-carotene.

Synthetic β-carotene has been available commercially since 1954 and has virtually replaced the natural form. It occurs as red crystals or crystalline powder, insoluble in water, acids, and alkalies but soluble in carbon disulfide, benzene, and chloroform. It is not affected by changes of pH, reducing conditions, or metals and metal salts normally encountered in food processing. Synthetic β-carotene is sensitive to photo-oxidation in the presence of air but is resistant when oxygen has been excluded. β-carotene is synthesized by saponification of vitamin A acetate. The resulting alcohol is either reacted to form vitamin A Wittig reagent or oxidized to vitamin A aldehyde. Vitamin A Wittig reagent and vitamin A aldehyde are reacted together to form β-carotene.

Carotene was listed as a GRAS nutrient in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, it was listed as a GRAS nutrient and dietary supplement in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). However, under a final rule published in the **Federal Register** of September 5, 1980 (45 FR 58837), FDA divided the nutrient and dietary supplement category into separate listings for GRAS dietary supplements and GRAS nutrients. Therefore, carotene currently is listed as GRAS in § 182.5245 (21 CFR 182.5245) for use as a dietary supplement and in § 182.8245 (21 CFR 182.8245) for use in food as a nutrient.

It should be noted that the listing in Part 182 does not indicate a specific carotene isomer. The agency has concluded that β-carotene is intended because it is the only isomer known to be used by food manufacturers. β-Carotene is listed for use as food colorant in § 73.95 (21 CFR 73.95) and in § 166.110 (21 CFR 166.110), the standard of identity for margarine. Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) lists vitamin A (which includes use of β-carotene) as a required nutrient in infant formula, subject to level restrictions. FDA is reviewing all nutrient levels in infant formulas under a contract with the American Academy of Pediatrics. Any necessary modifications in the nutrient levels of vitamin A in infant formula will be proposed by a separate rulemaking under section 412(a)(2) of the act. β-Carotene as a source of vitamin A also may be used to fortify foods as described in Part 104 (21 CFR Part 104).

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which carotene was used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to carotene. The survey revealed that β-carotene is used as a nutrient in dairy product analogs at a maximum level of 0.0015 percent, in fats and oils at 0.004 percent, in processed fruits and fruit juices at 0.00005 percent, and in infant formula at 0.00002 percent. FDA estimates from the NAS/NRC survey that the total amount of β-carotene used in food in 1970 was about 71 thousand pounds, or 2.8 times that used in 1960.

Carotene has been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 1,973 abstracts on carotene was reviewed, and 48 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review and other studies has been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all the available safety information on carotene.[2] In the Select Committee's opinion:

Carotene is a general term describing certain polyene hydrocarbons containing 40 carbon atoms. Three of these, α-, β-, and γ-carotene, as well as some closely related oxygen-containing carotenoids, exhibit provitamin A activity. β-carotene is the most active of the carotenes and the only one which is available commercially. It is added to food, chiefly margarine, both as a coloring agent, and for its vitamin A potential.

Early studies of the health aspects of "carotene" were performed with preparations of uncertain composition and purity. However, it is apparent from the sources of carotene utilized and the purification procedures adopted, that the active principle in these studies was largely β-carotene, so that the results are relevant to the present review. Since the development of synthetic β-carotene for commercial use in 1954, nearly all research on "carotene" has employed a crystalline and well-defined product.

The average daily intake of carotene from natural sources is estimated to be about 2 mg per day which is equivalent to approximately 3300 IU of vitamin A. Substantially larger amounts may be ingested in diets rich in colored vegetables. The Recommended Dietary Allowance of vitamin A from all sources is 5000 IU for adults. Consumption information from various sources, suggests that the per capita daily intake of β-carotene added to foods is 0.2 to 0.3 mg.

Doses several orders of magnitude greater than would conceivably be used as additives in food have proved nontoxic to various animal species given β-carotene orally in acute, short- and long-term studies. A single study suggested some impairment in neonatal skeletal development when 180 mg per kg or more of carotene were administered, daily to rats, but this study has not been confirmed.

When given in moderate amounts, carotene is readily converted to vitamin A. However, this conversion is limited when large amounts

[2] "Evaluation of the Health Aspects of Carotene (β-Carotene) as a Food Ingredient," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1979, pp. 11–21. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting that discussion in the preambles to proposals that affirm GRAS status in accordance with current good manufacturing practice.

of carotene are administered. The regulatory mechanism has not been elucidated. Doses of 180 mg (300,000 IU) daily for 2 or more years have been taken orally by patients suffering from certain types of photosensitivity with no evidence of hypervitaminosis A or other harmful effects.[2]

The Select Committee concludes that there is no evidence in the available information on carotene (β-carotene) that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.[2]

FDA has undertaken its own evaluation of all available information, and insofar as β-carotene is used as a nutrient in conventional food, concurs with the conclusion of the Select Committee. The agency concludes that no change in the GRAS status of this ingredient is justified. Therefore, the agency proposes that β-carotene be affirmed as GRAS when it is used as a nutrient supplement in conventional food. However, because the NAS/NRC survey did not specifically request data on dietary supplement use, FDA has no data upon which to judge the exposure from use of β-carotene as a dietary supplement. Without such exposure data, the agency cannot evaluate this use and therefore can take no action on the GRAS status of carotene for this use. Consequently, FDA is taking no action on the listing of carotene in § 182.5245 for use as a dietary supplement.

Additionally, FDA is proposing not to include in the GRAS affirmation regulation for β-carotene the levels of use reported in the NAS/NRC 1971 survey for this ingredient. Both FASEB and the agency have concluded that a large margin of safety exists for the use of this substance, and that any reasonably foreseeable increase in the level of consumption of β-carotene will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of β-carotene when it is used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of this substance is based on the evaluation of limited uses, the proposed regulation sets forth the technical effect and food categories that FDA evaluated.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

Copies of the scientific literature review on carotene and the report of the Select Committee are available for review at the Dockets Management Branch (address above) and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Carotene (scientific literature review).	PB 241-950/AS	A10	$13.00
Carotene (β-carotene) (Select Committee report).	PB 80-119837	A03	6.00

[1] Price subject to change.

This proposed action does not affect the current use of carotene in pet food or animal feed.

The format of the proposed regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1245 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including both the technical effect and food categories listed. This change has no substantive effect but is made merely for clarity.

The agency has determined pursuant to 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed 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.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substance covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.8245 [Removed]

1. In Part 182, by removing § 182.8245 *Carotene.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 184, by adding new § 184.1245, to read as follows:

§ 184.1245 β-Carotene.

(a) β-Carotene (CAS Reg. No. 7235-40-7) is the chemical $C^{GT240}H_{56}$. It is synthesized by saponification of vitamin A acetate. The resulting alcohol is either reacted to form vitamin A Wittig reagent or oxidized to vitamin A aldehyde. Vitamin A Wittig reagent and vitamin A aldehyde are reacted together to form β-carotene.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 73, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation

[2] *Ibid.*

of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: Dairy product analogs as defined in § 170.3(n)(10) of this chapter; fats and oils as defined in § 170.3(n)(12) of this chapter; and processed fruits and fruit juices as defined in § 170.3(n)(35) of this chapter. β-Carotene may be used in infant formula as a source of vitamin A in accordance with section 412(g) of the act or with regulations promulgated under section 412(a)(2) of the act.

The agency is unaware of any prior sanction for the use of this ingredient in food under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before December 27, 1982, submit to the Dockets Management Branch (address above), written comments regarding this proposal.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.

Dated: September 22, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-29223 Filed 10-25-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 182 and 184

[Docket No. 81N-0340]

Thiamine Hydrochloride and Thiamine Mononitrate; Proposed Affirmation of Gras Status as Direct Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that thiamine hydrochloride and thiamine mononitrate are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency. The proposal would take no action on the listings of these ingredients as GRAS substances for use in dietary supplements.

DATE: Comments by December 27, 1982.

ADDRESS: 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: Leonard C. Gosule, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of thiamine [1] hydrochloride and thiamine mononitrate has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of these ingredients as nutrient supplements in conventional food [2] and infant formula.

The GRAS status of the use of thiamine hydrochloride and thiamine mononitrate in dietary supplements (i.e., over-the-counter vitamin preparations in forms such as capsules, tablets, liquids, wafers, etc.) is not affected by this proposal. The agency did not request consumer exposure data on dietary supplement uses when it initiated this review. Without exposure data, the agency cannot evaluate the safety of using these ingredients in dietary supplements. The use of these ingredients in dietary supplements will continue to be authorized under Subpart F of Part 182 (21 CFR Part 182).

Thiamine, also called thiamin or vitamin B_1, is an essential nutrient in humans. Its metabolic derivative, thiamine pyrophosphate, is a cofactor in certain enzymatic acyl transfer reactions. The principal effects of thiamine deficiency occur in the peripheral nervous system, the cardiovascular system, and the gastrointestinal tract. The classical syndrome of thiamine deficiency is beriberi, the symptoms of which include polyneuritis, cardiac pathology, and edema.

Thiamine is found naturally in a variety of foods. The richest sources are yeast, bran, whole wheat, millets, and unpolished rice. Other natural sources of thiamine include fresh fruits and vegetables, pork, beef (especially liver), mutton, fish, cow's milk, and eggs. However, thiamine that is added to food is generally prepared synthetically as the chloride-hydrochloride or mononitrate salt. (The chloride-hydrochloride salt of thiamine is generally referred to as thiamine hydrochloride.)

Thiamine, generally as the chloride-hydrochloride salt, is synthesized by one of two procedures. The perferred method is to synthesize separately, and then link, the pyrimidine and thiazole ring systems. The alternative approach is to synthesize the pyrimidine ring system containing a side-group in the 5-position. The thiazole ring system is constructed from this side-group by a process of chain elongation followed by ring closure. Thiamine hydrochloride is used to prepare thiamine monoitrate. Thiamine mononitrate salt is prepared by dissolving thiamine hydrochloride in alkaline solution followed by precipitation of the nitrate half-salt with a stoichiometric amount of nitric acid.

Both thiamine hydrochloride and thiamine mononitrate occur as white crystals or crystalline powders and are stable in the dry form. The hydrochloride salt is hygroscopic and very soluble in water (1 gram per milliliter) but is unstable in solution above pH 5.5. In contrast, the mononitrate salt is practically nonhygroscopic and is only moderately soluble in water (.03 gram per milliliter). It is more stable than the hydrochloride salt and is preferred by the food industry for the enrichment of flour mixes.

[1] FDA is adopting this spelling instead of the spelling "thiamin," which was used in the report of the Select Committee on GRAS Substances (the Select Committee). The spelling "thiamine" is adopted because it is found in most FDA food standards, in section 412(g) of the Federal Food, Drug, and Cosmetic Act, and FDA's regulations for nutrition labeling of food (21 CFR 101.9(c)(7)).

[2] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

Thiamine hydrochloride and thiamine mononitrate were listed as GRAS nutrients in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, they were listed as GRAS nutrients and dietary supplements in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). However, in a final rule published in the **Federal Register** of September 5, 1980 (45 FR 58837), FDA divided the nutrient and dietary supplement category into separate listings for GRAS dietary supplements and GRAS nutrients. Therefore, thiamine hydrochloride and thiamine mononitrate currently are listed as GRAS in §§ 182.5875 and 182.5878 (21 CFR 182.5875 and 182.5878), respectively, for use in dietary supplements and in §§ 182.8875 and 182.8878 (21 CFR 182.8875 and 182.8878). respectively, for use in food as nutrients. Thiamine hydrochloride also is considered GRAS for use as a flavoring substance by the Flavor and Extract Manufacturers' Association (FEMA), and its use as a flavoring agent was reported in the 1971 NAS/NRC survey. In addition, FDA has stated in an opinion letter (dated April 14, 1966) that thiamine is GRAS when used as a component of imitation meat flavor.

Thiamine is listed as a required ingredient in standards of identity for the enrichment for certain breads (21 CFR 136.115), grains and flours (21 CFR 137.160, 137.165, 137.185, 137.235, 137.260, 137.305, and 137.350), and macaroni and noodle products (21 CFR 139.115, 139.117, 139.122, 139.135, 139.155, and 139.165). Thiamine may also be used to fortify foods as described in Part 104 (21 CFR Part 104). Section 412(g) of the Federal Food Drug, and Cosmetic Act (the act) lists thiamine as a required nutrient in infant formula, subject to level restrictions. FDA is reviewing all nutrient levels in infant formulas under a contract with the American Academy of Pediatrics. Any necessary modifications in the nutrient level of thiamine in infant formula will be proposed by a separate rulemaking under section 412(a)(2) of the act.

Considerable loss of thiamine from food occurs in cooking and slow loss occurs during storage. In addition, thiamine is destroyed rapidly by sulfide. Consequently, the proposed GRAS regulations for sulfiting agents (21 CFR 182.3616, 182.3637, 182.3739, 182.3766, 182.3798, and 182.3862) (47 FR 29956; July 9, 1982) prohibit their use in meats and other foods recognized as significant sources of thiamine.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which thiamine hydrochloride and thiamine mononitrate were used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to these ingredients. FDA estimates from the NAS/NRC survey that during the decade 1960–1970, use of both thiamine hydrochloride and thiamine mononitrate increased by approximately 20 percent. FDA also estimates that in 1970 the use of thiamine hydrochloride in food as a nutrient or flavoring agent was 135,000 pounds, and the use of thiamine mononitrate as a nutrient was 222,000 pounds.

Thiamine hydrochloride and thiamine mononitrate have been the subjects of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degraduation products, (6) carcinogenicity, teratogenicity, or matagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 4,612 abstracts was reviewed, and 79 particularly pertinent reports have been summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Committee, which is composed of qualified scientists selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all the available information on thiamine hydrochloride and thiamine mononitrate.[3] In the Select Committee's opinion:

> Thiamin (thiamine) salts have been administered to man for months in daily doses up to 1 g or more without reported adverse effects, except for the development of sensitivity in rare cases. This dosage is several hundred times the estimated intake of thiamin hydrochloride and thiamin mononitrate added to foods. Most cases of sensitivity were induced by previous topical or parenteral exposure to thiamin.
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> Similarly, mice and rats fed daily for three generations with several hundred times their normal requirements of thiamin showed no adverse effects. Absorption of orally administered thiamin is regulated by a transport mechanism which offers an effective protection against overdosage. Excess thiamin in the tissues is rapidly excreted in the urine.[3]

The Select Committee concludes that no evidence in the available information on thiamine hydrochloride or thiamine mononitrate demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.[3]

FDA has undertaken its own evaluation of all available information on conventional food uses of thiamine hydrochloride and thiamine mononitrate and concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status in these ingredients is justified. Therefore, the agency proposes that thiamine hydrochloride and thiamine mononitrate be affirmed as GRAS for use as a nutrient supplement. However, because the NAS/NRC survey did not specifically request data on dietary supplement use, FDA has no data upon which to judge the exposure from use of these substances in dietary supplements. Without such exposure data, the agency cannot evaluate this use of these ingredients and therefore can take no action on the GRAS status of thiamine hydrochloride and thiamine mononitrate for this use.

FDA received one letter that questioned the use of thiamine mononitrate as a contributor to the total dietary intake of nitrates. The Select Committee evaluated this question and found that dietary intake of nitrate from this source is only 0.1 percent of the total dietary intake of nitrate. FDA agrees with the Select Committee's assessment and concludes that the nitrate content of thiamine mononitrate does not represent a significant threat to human health.

Additionally, FDA is proposing not to include in the GRAS affirmation regulations for thiamine hydrochloride and thiamine mononitrate the food categories and levels of use reported in the 1971 NAS/NRC survey for these

[3] "Evaluation of the Health Aspects of Thiamin Hydrochloride and Thiamin Mononitrate as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1978, p. 9–17. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

ingredients. Both FASEB and the agency have concluded that a large margin of safety exists in the use of these substances, and that a reasonably foreseeable increase in the level of comsumption of these substances will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of these ingredients when they are used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of these substances is based on the evaluation of currently known uses, the proposed regulations set forth the technical effects that FDA evaluated.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

Copies of the scientific literature review on thiamine, a mutagenicity report on thiamine hydrochloride, and the report of the Select Committee on thiamine are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Thiamine (scientific literature review)	PB 241-951/AS	A17	$28.50
Thiamine hydrochloride (mutagenicity report)	PB 279-266/AS	A04	9.00
Thiamine (Select Committee report)	PB 241-951/AS	A03	7.50

[1] Price subject to change.

This proposed action does not affect the current use of thiamine hydrochloride and thiamine mononitrate in pet food or animal feed.

The format of the proposed regulations is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1875 and 184.1878 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effects listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed 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.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act, that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 184

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 182

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§§ 182.8875 and 182.8878 [Removed]

1. Part 182 is amended by removing § 182.8875 *Thiamine hydrochloride* and § 182.8878 *Thiamine mononitrate.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1875, to read as follows:

§ 184.1875 Thiamine hydrochloride.

(a) Thiamine hydrochloride ($C_{12}H_{17}ClN_4OS.HCl$, CAS Reg. No. 67–03–8) is the chloride-hydrochloride salt of thiamine. It occurs as hygroscopic white crystals or a white crystalline powder. The usual method of preparing this substance is by linking the preformed thiazole and pyrimidine ring systems.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 324, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter or as a nutrient supplement as defined in §170.3(o)(20) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice. Thiamine hydrochloride may be used in infant formula in accordance with section 412(g) of the act or with regulations promulgated under section 412(a)(2) of the act.

b. By adding new § 184.1878, to read as follows:

§ 184.1878 Thiamine mononitrate.

(a) Thiamine mononitrate ($C_{12}H_{17}N_5O_4S$, CAS Reg. No. 532–43–4), is the mononitrate salt of thiamine. It occurs as white crystals or a white crystalline powder and is prepared from thiamine hydrochloride by dissolving the hydrochloride salt in alkaline solution followed by precipitation of the nitrate half-salt with a stoichiometric amount of nitric acid.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 325, which is incorporated by reference. Copies are available from the National Academy

Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice. Thiamine mononitrate may be used in infant formula in accordance with section 412(g) of the act or with regulations promulgated under section 412(a)(2) of the act.

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before December 27, 1982, submit to the Dockets Management Branch (address above), written comments regarding this proposal. 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.

Dated: September 22, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-29221 Filed 10-25-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182, 184, and 186

[Docket No. 82N-0167]

Zinc Salts; Proposed Affirmation of Gras Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that zinc oxide and xinc sulfate are generally recognized as safe (GRAS), with specific limitations, as direct human food ingredients and to affirm that zinc chloride is GRAS as an indirect food ingredient. In addition, FDA is proposing not to affirm zinc chloride and zinc stearate as direct human food ingredients and is proposing to remove them from the list of substances that are GRAS. The proposal would take no action on the listing of zinc oxide, zinc sulfate, zinc chloride, and zinc stearate as GRAS substances for use in dietary supplements. The safety of zinc salts has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Comments by December 27, 1982.

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: Hortense S. Macon, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of zinc sulfate, zinc oxide, zinc chloride, and zinc stearate has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm, with specific limitations, the GRAS status of zinc oxide and zinc sulfate as direct human food ingredients and to affirm zinc chloride as GRAS as an indirect human food ingredient. FDA proposes to remove zinc stearate and zinc chloride from GRAS status as direct human food ingredients. The agency will take no action on the GRAS status of dietary supplement uses of zinc oxide, zinc sulfate, zinc chloride, and zinc stearate.

Zinc is an essential element in the nutrition of man, animals, and plants. In man, it plays important roles in growth, sexual maturation, and the mobilization of vitamin A from the liver, and it functions as an integral component of several enzymes.

Zinc chloride consists of white, very deliquescent granules and occurs in nature only in combination with other elements. It is prepared by reacting zinc metal oxide with hydrochloric acid. Zinc oxide is a white or yellowish powder and occurs naturally as the mineral zincite, sometimes called red zinc ore. It is also produced commercially by combustion of vaporized zinc metal. It is insoluble in water and in alcohol. Zinc stearate is a fine, soft white, bulky powder that does not occur in nature. It is prepared by reacting sodium stearate and zinc sulfate in solution. Zinc sulfate contains one or seven molecules of water of hydration. It occurs as a white powder or granules and occurs in nature as the minerals zinkosite and goslarite. It is manufactured by leaching roasted zinc ore concentrate with sulfuric acid, filtering out the residue, and treating the clear liquor with zinc dust to remove heavy metals. The monohydrate loses water at temperatures above 238° C, whereas the heptahydrate effloresces in dry air at room temperature. The monohydrate is soluble in water and practically insoluble in alcohol, whereas the heptahydrate is insoluble in alcohol.

Zinc carbonate and zinc acetate were considered in this safety review, but their use is in animal feed. Therefore, they are not a subject of this proposal. Zinc gluconate and zinc hydrosulfite also are not included in this proposal because they were not a part of this safety review. Their GRAS status will be addressed with other gluconates and hydrosulfites in other proposals.

The zinc salts that are the subject of this review are listed in Subparts F and I in Part 182 (21 CFR Part 182) for use as dietary supplements and nutrients, under the regulations published in the **Federal Register** of January 31, 1961 (26 FR 938). However, in a recodification published in the **Federal Register** of September 5, 1980 (45 FR 58837), FDA divided the nutrient and dietary supplement category into separate listings for GRAS dietary supplements and for GRAS nutrients. As a consequence the zinc salts that are the subject of review are listed as follows: Zinc chloride in § 182.5985 (21 CFR 182.5985) and § 182.8985 (21 CFR

182.8985); zinc oxide in § 182.5991 (21 CFR 182.5991) and § 182.8991 (21 CFR 182.8991); zinc stearate in § 182.5994 (21 CFR 182.5994) and § 182.8994 (21 CFR 182.8994). Zinc chloride is also listed in § 182.70 (21 CFR 182.70) as a GRAS component of cotton and cotton fabrics used in dry food packaging, under a regulation published in the **Federal Register** of June 10, 1961 (26 FR 5224). Zinc sulfate is also listed in § 182.90 (21 CFR 182.90) as GRAS when used in paper and paperboard food-packaging materials, under a regulation published in the **Federal Register** of June 17, 1961 (26 FR 5421).

FDA has approved several specific indirect food additive uses of zinc salts. Zinc oxide is listed in § 175.300(b)(3)(xxvi) (21 CFR 175.300(b)(3)(xxvi)) and zinc stearate is listed in § 175.300(b)(3)(xxii)(*a*) and (*b*) (21 CFR 175.300(b)(3)(xxii) (*a*) and (*b*)) as components of resinous and polymeric coatings in contact with food, and zinc stearate (zinc salts of fatty acids) is listed in § 177.2600 (21 CFR 177.2600) as a component of rubber articles intended for repeated use. Zinc stearate (zinc salts of fatty acids) is also listed in § 176.170 (21 CFR 176.170) as a component of paper and paperboard in contact with aqueous and fatty food, in § 176.180 (21 CFR 176.180) as a component of paper and paperboard in contact with dry food, in § 177.2410 (21 CFR 177.2410) as a lubricant of resins in molded articles, in § 177.1460 (21 CFR 177.1460) as a component of melamine-formaldehyde resins in molded articles, in § 177.1900 (21 CFR 177.1900) as a component of urea-formaldehyde resins in molded articles, and in § 178.2010 (21 CFR 178.2010) as a stabilizer for polymers. These indirect food additive regulations are not affected by this proposal.

Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) lists zinc as a required nutrient in infant formula, subject to level restrictions.

In 1971 and 1977, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which zinc salts are used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to these ingredients. This information indicates that overall annual consumption of zinc salts has increased fivefold since 1961. However, no information is available regarding whether the zinc content of the various food categories has changed within the past decade. The consumption of zinc as a food ingredient is very small compared to zinc consumed as a natural component of food.[1] FDA estimates from the NAS/NRC surveys that the amounts of zinc sulfate heptahydrate and zinc oxide used in 1970 to be 35,500 pounds and 30 pounds, respectively. NAS/NRC did not report direct food use of other zinc salts. The NAS/NRC surveys indicated that zinc oxide and zinc sulfate are used in foods as a nutrient. Zinc oxide is used in such foods as breakfast cereals, dairy products, and reconstituted vegetables. Zinc sulfate is used in such foods as nonalcoholic beverages and beverage bases and infant formula.

The zinc salts affected by this proposal have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered: (1) Chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 651 abstracts on the zinc salts was reviewed, and 91 particularly pertinent reports have been summarized in a scientific literature review.

Information from the scientific literature review and other sources is summarized in the report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The report of the Select Committee includes the following information:

Zinc is absorbed largely from the duodenum. The degree of absorption is substantially affected by the nutritive status with respect to zinc, dietary phytate, calcium, and phosphorus. Usually about 8 to 10 percent of the zinc ingested by rats, cats, and dogs is absorbed and the rest is excreted in the feces. Retention may be higher in bone and skin than in some other tissues but the element is present in every cell. The average biological half-life of zinc in adult man is 154 days.

As is the case with other metallic salts, zinc salts ingested in large amounts cause a variety of metabolic changes, including the inhibition of intestinal alkaline phosphatase, xanthine oxidase, liver catalase, cytochrome oxidase and succinic dehydrogenase; also, they modify the excretion of nitrogen, phosphorus, and sulfur. For example, feeding up to one percent of zinc oxide in the diet of rats resulted in increased urinary excretion of nitrogen while phosphorus and sulfur excretion was reduced. However, fecal excretion was also increased resulting in decreased net retention. Urinary excretion of both uric acid and creatinine was increased.

In general, the most important effect of feeding excess zinc appears to be a specific microcytic hypochromic anemia, probably related to chagnes in iron and copper utilization. For example, decreases in iron storage proteins were observed when rats were fed a diet containing 0.4 percent zinc oxide. In other studies, diets containing 0.75 percent zinc (salt not indicated) resulted in decreased red cell life spans and increasing iron excretion in rats. Finally, feeding an excess of zinc oxide (up to 0.6 percent as zinc) to rats resulted in a decrease in both iron and copper levels of all tissues, explaining most of the enzyme changes. This effect of zinc excess on iron and copper metabolism appears to be the result of interference with iron and copper utilization at the cellular level and by increasing the excretion of copper. Evidence for this interaction is observed in studies in which iron and copper supplementation can reverse the anemia caused by excess zinc feeding.

A similar interaction has been found with calcium. For example, increasing dietary calcium increased the loss of zinc in rats and resulted in decreasing absorption and decreasing turnover. In other studies, high calcium and phosphorus intakes appeared to increase the zinc requirement of rats. On the other hand, feeding an excess (0.75 percent zinc as zinc carbonate) in the diet of young rats for one week resulted in a marked decrease in bone calcium and phosphorus. The mechanism of this interaction remains unknown.

In the rat the oral LD_{50} of zinc sulfate has been reported to be 1374 mg per kg; of zinc sulfate heptahydrate, zinc acetate heptahydrate, and zinc chloride, 750 mg per kg. Values of similar magnitude have been reported for mice and rabbits. One human fatality has been reported; the death of an adult female was attributed to zinc sulfate poisoning following the accidental consumption of about 30 g of the salt. This intake amounted to about 500 mg per kg of body weight, a value similar to that found to be a lethal dosage in animal studies.

Many short-term feeding tests with high levels of zinc salts fed to a number of experimental animal species have shown no adverse effects at levels below 100 mg of the salt per kg day. At higher levels a variety of observations have been reported depending on the salt used. At these levels, the most injurious salts were the chloride and the acetate with the latter apparently the more toxic. On the other hand, extensive studies indicate that feeding zinc oxide or zinc sulfate at levels in excess of 500 mg of the salt per kg has no consistently adverse effects. It would appear that the nature of the compound plays a significant role in the toxicology of zinc. Unfortunately, all four compounds have not been compared under the same experimental conditions. Limited studies of zinc sulfate intake have been

[1] See "Recommended Dietary Allowances," 9th Ed., The National Academy of Sciences, Washington, DC 20418, p. 146, 1980.

conducted in man. In general, there was no evidence of toxicity at levels of up to 660 mg per day of the heptahydrate (about 10 mg of the salt per kg per day) for up to 3 months.

Long-term exposures have been carried out in rats with zinc chloride, oxide, carbonate, and sulfate. These studies, extending for one year and over three generations, showed no effect at levels up to 0.25 percent of the diet. However, in other investigations, zinc sulfate, fed at dietary levels of about 100 ppm to rats and dogs, was reported to cause hematological changes including microcytosis, coupled with polychromasia in some animals and hyperchromasia in others; in addition, more rapid turnover of red blood cells was observed.

No evidence of carcinogenicity of the several zinc salts was noted in rat studies over three generations or in the feeding to rats of zinc oxide (equivalent to 34.4 mg of zinc daily for 29 weeks), zinc acetate (equivalent of up to 6.3 mg of zinc daily for 29 weeks), or zinc carbonate (equivalent of up to 1 percent zinc in the diet for 39 weeks). Two studies with evidence of carcinogenicity from zinc have been reported. These observations were made on mice given zinc chloride in drinking water at different levels and under different conditions, but the concentrations of greatest interest to the investigators were 10 to 20 mg of the salt per liter. Treatment schedules, or precise evaluation of tumors and sites were not reported. No controls were used in some of the experiments, and in others it is apparent that the controls were used in a different time sequence. No statistical evaluation of the data was given. Therefore, it is impossible to draw definite conclusions.

In another study mice were given up to 5,000 ppm of zinc as zinc sulfate in drinking water. No significant carcinogenic differences between the treated and control groups were observed. These findings, the comprehensive critical analyses of the literature by experienced investigators and recent reviews by two laboratories specializing in experimental carcinogenesis, make it evident that zinc salts taken orally should not be considered a carcinogenic hazard.

Reproduction studies performed through several generations have revealed no evidence of any adverse effect on fertility, gestation, and the health of the fetus from feeding up to 0.25 percent zinc chloride, zinc oxide, zinc carbonate, or zinc sulfate to rats. In addition, specific studies of the effect of excess dietary zinc, fed as the oxide, malate, acetate, citrate, or sulfate, on the chemical composition and enzymic activities of maternal and fetal tissues, have not revealed adverse effects.

Teratologic tests on three species of animals were negative. Daily oral administration of up to 30 mg of zinc sulfate per kg of body weight in mice (day 6 through day 15 of gestation), up to 42.5 mg per kg in rats (day 6 through 15 of gestation), and up to 88 mg per kg in hamsters (day 6 through day 10 of gestation) had no clearly discernible effect on nidation or on maternal or fetal survival. The number of abnormalities observed either in soft or skeletal tissues of the test groups did not differ from the number occurring spontaneously in the sham-treated controls.[2]

The members of the Select Committee have evaluated all available safety information on zinc sulfate, zinc oxide, zinc acetate, zinc carbonate, and zinc chloride. The Select Committee did not review zinc stearate because of a lack of safety information. In the Select Committee's opinion:

> The available information indicates that a wide margin exists between present intake levels of zinc salts and those that have been reported to produce noticeably harmful effects. Similarly, the suggestion that zinc chloride is carcinogenic has not been supported in carefully controlled animal studies.
>
> However, because of the central role of zinc as either an activator of certain enzymes or as a coenzyme in many metabolic reactions, it has been demonstrated that relatively large excesses of zinc salts in the diet can lead to metabolic dysfunctions. In particular, the interation, of zinc with several other mineral nutrients, notably iron, copper and calcium suggests that major modification of this nutritional balance might lead to significant metabolic disturbances. In consideration of this and the currently wide nutritional use of zinc sulfate and zinc oxide in infant formulas, it would be desirable, in due course, to expand our knowledge of the interaction of zinc salts in association with dietary levels of other essential mineral nutrients. It would also be desirable to establish maximum limits for the levels of zinc salts in food, particularly in formulas for infants, since this segment of the population may now consume the highest level of zinc salts when calculated on a daily or body weight basis.[2]

The Select Committee concludes that no available information on zinc sulfate, zinc oxide, zinc acetate, zinc carbonate, and zinc chloride demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels now current and in the manner now practiced. However, the Select Committee also states it is not possible to determine without additional data, whether a significant increase in consumption would constitute a dietary hazard.[2]

FDA has undertaken its own evaluation of all available information on these ingredients, including mutagenic evaluations of zinc oxide and zinc sulfate not available when the Select Committee formed its conclusion. Based on available safety data, the agency proposes to affirm zinc oxide and zinc sulfate as GRAS direct human food ingredients with specific limitations on their use in conventional foods[3] and to affirm zinc chloride as GRAS for indirect use. The levels of use in food set forth in this proposal for various food categories are the maximum levels reported to the NAS/NRC in their 1971 and 1977 surveys of food manufacturers on the use of GRAS ingredients. The agency encourages the submission, as comments on this proposal, of other food uses for these ingredients that may not have been reported during these surveys. Each report of an additional use should include the food category and maximum use level, so that the agency can determine whether a significant increase in the consumption of zinc salts will result from these new reported uses. FDA will address any changes in the regulatory status of the subject compounds when it issues the final rule.

The Select Committee expressed concern about the use of zinc salts in infant formula. FDA is reviewing all nutrient levels in infant formulas under a contract with the American Academy of Pediatrics. Any necessary modifications in the nutrient level of zinc in infant formula will be proposed by a separate rulemaking under section 412(a)(2) of the act.

FDA has conducted its own evaluation of zinc stearate and zinc chloride and proposes not to affirm their GRAS status as direct human food ingredients and to remove them from the list of substances that are GRAS for use as nutrients. No evidence of their use in food was reported during the NAS/NRC surveys of the food industry. Therefore, FDA must assume that use of these substances has been discontinued. In previous GRAS affirmation proposals, FDA emphasized that use information (i.e., foods in which the ingredient is added, the intended technical effect, and the levels of addition) is important in assessing the safety of GRAS food ingredients. Because the agency does not have any evidence of food use for zinc chloride and zinc stearate, the agency is proposing not to affirm these substances as GRAS.

The agency decided to propose not to affirm zinc chloride and zinc stearate as GRAS for direct food use after considering comments received in opposition to a proposal that FDA issued on April 13, 1973 (38 FR 9310) to remove zinc chloride, zinc stearate, and several other substances from the GRAS list. The basis for the 1973 proposal was the same as that for this proposal: the

[2] "Evaluation of the Health Aspects of Certain Zinc Salts as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, pp. 5–8, 1973.

[2] *Ibid.*, p. 8.

[2] *Ibid.*, pp. 8–9.

[3] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

absence of evidence in the 1971 NAS/NRC survey that these substances are being used. Several of the comments that responded to the 1973 proposal requested that FDA retain zinc chloride and zinc stearate on the GRAS list for food-packaging materials, and two comments indicated plans for direct use of these salts in human food. However, in recent communications regarding direct food use of zinc chloride and zinc stearate, FDA has learned that these ingredients are not now being used in food, and that there are no plans to use them in food in the future.

Regarding the requested food-packaging uses of zinc chloride and zinc stearate, FDA is not aware of any current uses of zinc stearate which are not covered under existing regulations. The agency is proposing, however, to affirm zinc chloride as GRAS for indirect use as a constituent of cotton and cotton fabrics used in dry food packaging. The use of zinc chloride in cotton and cotton fabrics is the only use of zinc chloride in food-packaging materials of which FDA is aware. FDA will reconsider the regulatory status of zinc chloride and zinc stearate if adequate use information of the type cited above is submitted. Alternatively, persons seeking FDA approval of zinc chloride and zinc stearate may submit a GRAS or food additive petition in accordance with § 170.35 or § 171.1 (21 CFR 171.1).

FDA is taking no action at this time on the listings of zinc chloride, zinc oxide, zinc sulfate, and zinc stearate in Subpart F of Part 182. Because the NAS/NRC survey did not specifically request data on dietary supplement use, FDA does not have adequate data upon which to judge the exposure from the use of zinc chloride, zinc oxide, zinc sulfate, and zinc stearate as dietary supplements. Without such exposure data, the agency cannot evaluate the safety of their use in dietary supplements and therefore can take no action on the GRAS status of zinc chloride, zinc oxide, zinc sulfate, and zinc stearate for this use.

In the past, when a substance was listed in Part 182 as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 (21 CFR Parts 184 and 186) to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a) (21 CFR 184.1(a)), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of zinc sulfate. The indirect uses of zinc sulfate would be authorized under §§ 184.1997 and 184.1(a).

In the case of zinc sulfate, FDA believes that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of this ingredient. Therefore, the agency has not proposed any specific purity specifications for its indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA published a proposal in the **Federal Register** of June 25, 1982 (47 FR 27817) to amend its procedural regulations in Parts 184 and 186 to reflect clearly these policies.

Copies of the scientific literature review on zinc salts, mutagenic evaluations of zinc oxide, zinc sulfate, and zinc stearate, teratogenic evaluation of zinc sulfate, and the report of the Select Committee are available for review at the Dockets Management Branch (address above) and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price[1]
Zinc salts (scientific literature review).	PB 221-214	A06	$12.00
Zinc oxide (mutagenic evaluation).	PB 257-880/AS.	A03	7.50
Zinc sulfate (mutagenic evaluation).	PB 245-451/AS.	A05	10.50
Zinc stearate (mutagenic evaluation).	PB 279-265/AS.	A04	9.00
Zinc sulfate (teratogenic evaluation).	PB 221-805/AS.	A03	7.50
Zinc sulfate (teratogenic evlauation, rabbits).	PB 267-191/AS.	A02	6.00
Certain zinc salts (Select Committee report).	PB 266-879/AS.	A02	6.00

[1]Price subject to change.

The format of the proposed regulations is different from that in previous GRAS affirmation regulations. The agency has modified the form in which the conditions of use of these ingredients is presented. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11 1979; 44 FR 71742) that this proposed 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.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that because the effect of this proposal is to maintain current known uses of th substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive fro this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the fina rule, if promulgated, will not be a majo rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients; Spices and flavorings.

21 CFR Part 184

Direct food ingredients; Food ingredients; Generally recognized as safe (GRAS) food ingredients.

21 CFR Part 186

Food ingredients; Generally recognized as safe (GRAS) food ingredients; Indirect food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182, 184, and 186 be amended as follow

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. In Part 182:

§ 182.70 [Amended]

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in*

dry food packaging by removing the entry "Zinc chloride".

§ 182.90 [Amended]

b. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entry "Zinc sulfate".

§§ 182.8985, 182.8991, 182.8994, and 182.8997 [Removed]

c. By removing § 182.8985 *Zinc chloride*, § 182.8991 *Zinc oxide*, § 182.8994 *Zinc stearate*, and § 182.8997 *Zinc sulfate*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 184:

a. By adding new § 184.1991, to read as follows:

§ 184.1991 Zinc oxide.

(a) Zinc oxide (ZnO, CAS Reg. No. 1314-13-12) is a white or yellowish-white powder and occurs naturally as the mineral zincite, sometimes called red zinc ore. Commercial zinc oxide is also produced by combustion of vaporized zinc metal.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981, p. 350, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(2), the ingredient is used in food only within the following specific limitations:

Category of food	Maximum percent [1]	Functional use
Breakfast cereals, § 170.3(n)(4) of this chapter.	0.02	Nutrient supplement, § 170.3(o)(20) of this chapter.
Dairy product analogs, § 170.3(n)(10) of this chapter.	0.006	Do.
Plant protein products, § 170.3(n)(33) of this chapter.	0.00025	Do.

[1] Maximum level of use in food (as served).

b. By adding new § 184.1997, to read as follows:

§ 184.1997 Zinc sulfate.

(a) Zinc sulfate ($ZnSO_4$, CAS Reg. No. 7733-02-0; $ZnSO_4.H_2O$, CAS Reg. No. 7446-19-7; or $ZnSO_4.7H_2O$, CAS Reg. No. 7446-20-0) exists as a white powder or granules and occurs in nature as the minerals zinkosite and goslarite. Zinc sulfate is manufactured by bleaching roasted zinc ore concentrate with sulfuric acid, filtering out the residue, and treating the clear liquor with zinc dust to remove heavy metals. The clear liquor is then evaporated, and zinc sulfate crystals separated by filtration or centrifugation.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 351, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c)(1) In accordance with § 184.1(b)(2), the ingredient is used in food only within the following specific limitations:

Category of food	Maximum percent [1]	Functional use
Beverages and beverage bases, nonalcoholic, § 17.3(n)(3) of this chapter.	0.00002	Nutrient supplement, § 1703(o)(20) of this chapter.

[1] Maximum level of use in food (as served).

(2) Zinc sulfate may be used in infant formual in accordance with section 412(g) of the act or with regulations promulgated under section 412(a)(2) of the act.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. In Part 186 by adding new § 186.1985, to read as follows:

§ 186.1985 Zinc chloride.

(a) Zinc chloride ($ZnCl_2$, CAS Reg. No. 7646-85-7) consists of white, very deliquescent granules and occurs in nature only in combination with other elements. It is prepared by reacting zinc metal or zinc oxide with hydrochloric acid.

(b) In accordance with § 186.1(b)(1), the ingredient is used as an indirect human food ingredient with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as an indirect human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a constituent of cotton and cotton fabrics used for dry food packaging.

(2) The ingredient is used at levels not to exceed current good manufacturing practice.

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR 184 or 186), as appropriate.

Interested persons may, on or before December 27, 1982, submit to the Dockets Management Branch (address above), written comments regarding this proposal. 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.

Dated: October 5, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-29340 Filed 10-25-82; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL 2162-3]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; High-Altitude Emission Standards for 1982 and 1983 Model Year Light-Duty Motor Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed amendments.

SUMMARY: The proposed amendments would amend Section 86.082-30(a)(4) of the Environmental Protection Agency's regulations for vehicles sold in high-altitude areas, found in 40 CFR Subpart A. As amended, that provision would set forth steps a manufacturer may take which, if taken, would assure the manufacturer that it would be in compliance with certain regulatory requirements regarding the sale and delivery of such vehicles. The result of

manufacturers taking these steps should be that significant numbers of motor vehicles sold to ultimate purchasers for principal use at high-altitude are configured to meet high-altitude emission standards.

DATES: Comments should be submitted by November 26, 1982. Any person may request that EPA hold a public hearing to consider these amendments. Any request should be submitted to the information contact listed below by November 15, 1982. If a hearing is requested, EPA will publish a notice of the location, date, and time, and will hold the public comment period open for 30 days following the hearing.

ADDRESSES: Comments should be submitted to the U.S. Environmental Protection Agency, Central Docket Section (A-130), West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460; Docket No. EN-82-04. the docket may be inspected between the hours of 8:00 a.m. to 4:00 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mary T. Smith, Attorney/Advisor, Manufacturers Operations division (EN-340), Environmental Protection Agency, 401 M. St. SW., Washington. D.C. 20460, (202) 382-2514.

SUPPLEMENTARY INFORMATION: On October 8, 1980 (45 FR 66984), EPA published final regulations establishing exhaust and evaporative high-altitude emission standards and compliance procedures for 1982 and 1983 model year light-duty vehicles and light-duty trucks. On December 4, 1980, the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") filed a petition for review of those regulations in the United States Court of Appeals for the District of Columbia Circuit. EPA and MVMA entered into settlement discussions, which resulted in an agreement that EPA would propose to amend 40 CFR 86.082(a)(4), so that it sets forth with greater particularity the reasonable steps a manufacturer can take to assure itself that it will not violate Section 203(a)(1) of the Clean Air Act.

The regulations give vehicle manufacturers the option of either producing vehicles in high-altitude configurations, or producing vehicles which are capable of being modified into high-altitude configurations by dealers. 40 CFR 86.082-8(g)(1) and 86.082-9(g)(1). Section 86.082-30(a)(4) currently provides, among other things, that a manufacturer violates Section 203(a)(1) of the Act whenever it sells or delivers a subject motor vehicle which is not configured to meet the high-altitude emission standards (hereafter referred to as a "low-altitude vehicle") to an ultimate purchaser for principal use in a designated high-altitude area. This could occur when a manufacturer's authorized dealer fails to make the necessary modifications on a vehicle destined for principal use in a high-altitude area. A violation does not occur, however, when the manufacturer has "substantial reason to believe" that such vehicle will not be principally used by the ultimate purchaser at a designated high-altitude location.

The litigation brought by MVMA was based on its contention that the effect of this section is to unlawfully hold a manufacturer vicariously liable for actions taken by its dealers over which it has no control. MVMA maintains that since in the normal course of business, manufacturers do not sell motor vehicles to ultimate purchasers, they have no way of knowing with any certainty where an ultimate purchaser principally intends to use a motor vehicle. MVMA contends further that manufacturers sell and deliver their motor vehicles to independent dealers for resale to ultimate purchasers, and that despite manufacturers' good faith efforts, these dealers may operate in a manner that could result in some improper sales. MVMA has pointed out that the "reason to believe" and "substantial reason to believe" language of the present section gives insufficient guidance to manufacturers concerning what steps they can take to protect themselves from being held liable for improper sales.

The proposed amendment provides the requested guidance by describing steps a manufacturer can take to discharge its responsibility to ensure that vehicles are configured properly. It sets up a two-pronged approach under which a manufacturer could: (1) Establish a system designed to monitor sales for potential problems; and, (2) follow certain procedures with respect to any such problems. The system should work with minimal involvement by EPA.

Under the proposed amendments, a manufacturer could implement one of two systems. First, under paragraph (a)(4)(ii)(A) of § 86.082-30, it could in specified circumstances require dealers to furnish signed statements from purchasers that low-altitude vehicles will not be used principally in high-altitude areas. Alternatively, under paragraph (a)(4)(ii)(B), the manufacturer could implement a system which monitors factory orders or through other means identifies sale or delivery of improperly configured vehicles. Under either system, the manufacturer in circumstances specified in paragraph (a)(4)(ii)(C) would warn dealers that sale of improperly configured vehicles may be contrary to the terms of its franchise agreement and applicable regulatory requirements.

A manufacturer could choose to take steps in addition to those described above, or to implement a different system of assuring sale of properly configured vehicles. The point of the proposed amendments is that, if the manufacturer had taken the steps described above, the manufacturer would be conclusively deemed to have reason to believe that no low-altitude vehicles had been sold to an ultimate purchaser for principal use at a designated high-altitude location. A manufacturer would also have to inform its dealers and field representatives about the terms of the high-altitude regulations. Notwithstanding these protections, a manufacturer would be in violation of Section 203(a)(1) of the Clean Air Act, however, if it actually caused an improper sale.

Certain other aspects of the proposed amendments deserve mention. In paragraph (a)(4)(ii)(A), "contiguous counties" means counties physically adjacent to any county designated as high altitude in 40 CFR 86.082-30(a)(5). Under this paragraph, the manufacturer would require certain dealers to submmit written statements: (1) Dealers in designated high-altitude locations when they sell a low-altitude vehicle to an ultimate purchaser; (2) dealers in contiguous counties when they sell a low-altitude vehicle to an ultimate purchaser residing in a designated high-altitude location; and (3) dealers in designated high-altitude locations or contiguous counties when they sell or deliver a fleet of ten or more low-altitude motor vehicles to an ultimate purchaser residing in a designated high-altitude location. In this last category, the manufacturer would set up its system either to have the selling dealers submit the statements, or the delivering dealers. With respect to any ultimate purchaser who is a corporate entity, the phrase "residing in" would mean located in. EPA expects there to be few instances when low-altitude vehicles will be sold in designated high-altitude locations or to purchasers residing in designated high-altitude locations; consequently, there would be few instances where dealers would ask purchasers to sign the necessary statements.

In paragraph (a)(4)(ii)(C), the word "significant" was included to address a concern expressed by MVMA that the manufacturers not be in violation of the

Act for failing to take the steps set forth in this paragraph when a dealer sells or delivers only a few improperly configured motor vehicles to an ultimate purchaser for principal use in a designated high-altitude location despite having implemented either of the systems described in paragraphs (ii) (A) and (B). "Significant" in this context does not refer to a significant portion of the dealer's sales or a significant effect on air quality.

The amendments would also require the manufacturer to furnish information to EPA on request in specified circumstances, and would impose certain conditions on the frequency of such requests. Except for these specified limitations, EPA would retain its authority to seek information under Section 208 of the Act.

Regulatory Analysis

Section 3(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981), requires EPA to initially determine whether a rule that it intends to propose or issue is a major rule and to prepare regulatory impact analyses for all major rules.

EPA has determined that the rules proposed herein are not major rules. As discussed above, these amendments simply provide better guidance on how manufacturers may comply with the substantive requirements already present in the original rule. Accordingly, a Regulatory Impact Analysis is not being prepared for this proposal.

This regulation was submitted to the office of Management and Budget for review as required by Executive Order 12291.

The reporting or recordkeeping (information) provisions in this proposed amendment will be submitted for approval to the Office of Management and Budget (OMB). Any final amendment will explain how its reporting or recordkeeping provisions respond to any OMB or public comments.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory analysis. The revision of the regulations established by the rulemaking does not impose any substantive or reporting requirements on small entities in addition to those under the original rule. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant adverse economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labelling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: October 20, 1982.

Anne M. Gorsuch,

Administrator.

PART 86—[AMENDED]

For the reasons set forth in the preamble, EPA proposes to amend paragraph (a)(4) of 40 CFR 86.082-30 to read as follows:

§ 86.082-30 Certification.

(a) * * *

(4) The adjustment or modification of any light-duty vehicle and light-duty truck in acordance with instructions provided by the manufacturer for the altitude where the vehicle is principally used will not be considered a violation of Section 203(a)(3) of the Clean Air Act.

(i) a violation of Section 203(a)(1) of the Clean Air Act occurs when any manufacturer sells or delivers to an ultimate purchaser any light-duty vehicle or light-duty truck, subject to the regulations under the Act, which is not configured to meet high-altitude requirements:

(A) At a designated high-altitude location, unless such manufacturer has reason to believe that such motor vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(B) At a location other than a designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated high-altitude location.

(ii) A manufacturer shall be deemed to have reason to believe that a motor vehicle which is not configured to meet high-altitude requirements will not be sold to an ultimate purchaser for principal use at a designated high-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either (A) or (B), and (C) of the following:

(A) Requiring dealers in designated high-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a motor vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; requiring dealers in counties contiguous to designated high-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a motor vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high altitude location; and for each sale or delivery of fleets of 10 or more such vehicles in a high-altitude location or in counties contiguous to high-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but no more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of low-altitude vehicles by high-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser for principal use at a designated high-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a State or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser residing in a designated high-altitude location, or based on information obtained pursuant to subparagraph (ii) that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and,

where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet high-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

[FR Doc 82-29348 Filed 10-25-82; 8:45 am]
BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 47, No. 207
Tuesday, October 26, 1982

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Notice of Public Hearing Regarding Application

Notice is hereby given of a public hearing to be held in the Jeff Davis County Courthouse, Hazlehurst, Georgia, beginning at 10:00 a.m., e.s.t., on November 4, 1982, upon the application of Steve Roberson, Jeff Davis County Tobacco Warehouse, Hazlehurst, Georgia; Al Averette, Appling Tobacco Company, Baxley, Georgia; Earlish Lightsey, Big Dixie Warehouses 1 and 2, Baxley, Georgia; and Ed Radford, Miles Tobacco Warehouse, Baxley, Georgia, for tobacco inspection and price support services to a new market which would be a consolidation of the currently designated markets of Hazlehurst and Baxley, Georgia. Such public hearings will be conducted and evidence received governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR Part 29, Subpart A, Secs. 29.1–29.3).

Dated: October 20, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-29294 Filed 10-25-82; 8:45 am]

BILLING CODE 3410-02-M

Agricultural Stabilization and Conservation Service

Proposed Determinations With Regard to the 1983 Rice Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed determinations.

SUMMARY: The following determinations are proposed to be made with respect to the 1983 crop of rice: (a) The loan and purchase level; (b) the established (target) price; (c) the percentage of reduction and the method for establishing acreage bases under an acreage reduction program (ARP); (d) whether to permit haying and grazing of conservation use acreage; (e) the extent of diversion and the level of payment under a land diversion program; (f) whether to require offsetting compliance; and (g) other provisions. These determinations are required to be made in accordance with provisions of the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act").

DATE: Comments must be received on or before November 26, 1982 to be assured consideration.

ADDRESS: Dr. Howard C. Williams, Director, Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013

FOR FURTHER INFORMATION CONTACT: George H. Schaefer, Supervisory Agricultural Marketing Specialist, Analysis Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013 or call (202) 447–4634. A Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed determination and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been designated as "major". It has been determined that these program provisions will affect the supply and price of rice during the 1983/84 marketing year, which will in turn impact upon producers, processors, exporters and consumers of rice.

The titles and numbers of the federal assistance programs to which this notice applies are: TITLE-Rice Production Stabilization, Number 10.065, and TITLE-Commodity Loans and Purchases, Number 10.051 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since a notice of proposed rulemaking is not required to be published in accordance with 5 U.S.C. 553 or any other provision of law with respect to the subject matter of these determinations.

The following proposed program determinations will be made with respect to the 1983 crop of rice:

Proposed Determinations

1. *The Loan and Purchase Rate.* Section 101(i)(1) of the Act provides that the Secretary of Agriculture shall make available to producers in the several States of the United States loans and purchases for the 1983 crop of rice at such level as bears the same ratio to the loan level for the preceding year's crop as the established price for the 1983 crop of rice bears to the established price for the preceding year's crop. If the Secretary determines that loans and purchases at the foregoing level would substantially discourage the exportation of rice and result in excessive stocks of rice in the United States, the Secretary may establish loans and purchases at such level, not less than $8.00 per hundredweight, as the Secretary determines necessary to avoid such consequences.

Section 403 of the Act provides that appropriate adjustments may be made in the support price for differences in grade, type and other factors. Section 403 further provides that such adjustments shall, so far as practicable be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support.

The following loan and purchase levels are currently being considered for 1983 crop rice: (a) $8.55 per hundredweight, the rate calculated in accordance with the statutory formula; and (b) $8.14 per hundredweight, the 1982 crop loan and purchase rate. Export utilization for 1983/84 is forecast to decline from the 1982/83 level should the 1983 crop loan and purchase rate increase from the rate applicable to the 1982 crop.

The national average loan rate for rice is determined and announced on the basis of rough rice. However, USDA provides price support to the eligible producer on the milled outturn of a sample of rough rice. Consequently, separate loan rates for whole kernels and for broken kernels of milled rice need to be derived based on the rough rice loan rate.

To calculate these milled rice loan rates, the USDA currently uses the latest three-year average market prices for milled rice and broken rice as reported by *Rice Market News*, published by the Agricultural Marketing Service (AMS), and the latest three-year average milling yield outturn which is based on rough rice inspection certificates.

The USDA is considering revising this procedure by using the latest twelve month weighted average market prices as reported by the U.S. Department of Commerce to derive milled rice market prices, while continuing to use the broken rice prices as reported by AMS but for the latest twelve months, rather than three-year, period. The USDA is also considering using a fixed milling outturn. These changes are expected to more accurately reflect current and actual market prices and average milling yields.

USDA is also considering adopting discounts for grade and/or grading factors which more accurately reflect current commercial grade discounts. USDA previously derived loan discount rates based on the anticipated incidence of rough rice grades. This weighting method generated premiums and discounts which did not necessarily correspond to commercially used discounts. USDA is, therefore, considering applying commercially used grade discounts to the loan value of whole and broken kernels without regard to the anticipated incidence of grade in the 1983 and subsequent crops. Adoption of commercial discounts could result in the elimination of a premium for Grade 1 and a possible doubling of discounts for Grades 3, 4, and 5.

Comments, along with supporting data, are requested on (a) the loan and purchase rate for the 1983 crop of rice; (b) the proposed revisions in the method for calculating loan rates for whole and broken kernel rices; (c) the method of determining the loan rate differential for long, medium, and short grain rice; and (d) whether USDA should adopt commercial discounts for grade and/or grading factors, and if so, what level of discounts would be appropriate for 1983 crop rice.

2. *The Established (Target) Price.* Section 101(i)(2)(C) of the Act provides that the established price for rice shall be not less than $11.40 per hundredweight for the 1983 crop. Such established price may be adjusted by the Secretary as the Secretary determines to be appropriate to reflect any change in (a) the average adjusted cost of production per acre for the two crop years (1981 and 1982) immediately preceding the year for which the determination is made from (b) the average adjusted cost of production per acre for the two crop years (1980 and 1981) immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production may be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and may include variable costs, machinery ownership costs, and general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

3. *The Percentage of the Acreage Reduction Program.* Section 101(i)(5)(A) of the Act provides that for the 1983 crop of rice, the Secretary shall provide for a combination of an acreage limitation program and a diversion program under which the acreage planted to rice for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 percent, consisting of a reduction of 15 percent under the acreage limitation program and a reduction of 5 percent under the diversion program. However, the Secretary is authorized to implement a program which requires producers to make greater reductions in the planted acreage of rice.

As a condition of eligibility for loans, purchases, and payments on 1983 crop rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program.

Section 101(i)(5)(A) of the Act provides that the acreage base for any farm for the purpose of determining any reduction required to be made for any year shall be the acreage planted on the farm to rice for harvest in the crop year immediatly preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to rice for harvest in the two crop years immediately preceding the year for which the determination is made. However, the Act further provides that the acreage base to be used for the farm under the program for the 1983 crop of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop. Under the Act, the Secretary may make adjustments to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.

The Act provides that any acreage limitation requirement which is established for a crop of rice shall be achieved by applying a uniform precentage reduction to the acreage base for each rice producing farm. This provision is applicable to other program crops such as wheat, feed grains, and upland cotton. In this regard, however, the Secretary has received comments that the determination of acreage bases on a farm with respect to rice may result in lower crop quality in some areas with red rice problems. In these particular areas, red rice can be controlled by rotating rice from the affected acreage on a farm for periods of up to two years. It has been suggested that if acreage bases are determined based upon the acreage of rice planted for harvest on a farm with no adjustments being permitted for crop rotation other than for established crop rotation practices, this red rice control method cannot be utilized. Comments are requested on any need to make adjustments, on a case-by-case basis, which would resolve this problem arising from the establishment of rice acreage bases for a farm.

The determination of an appropriate percentage reduction requirement for a combined acreage limitation and land diversion program for the 1983 rice crop depends greatly on the magnitude of the 1982 rice crop and marketings. The 1982-crop planted acreage has been estimated at 3.32 million acres with harvested acres at 3.286 million, resulting in production estimated at 157.9 million hundredweight. This production level is based on an estimated harvested yield of 4,805 pounds per acre.

Domestic use of rice for 1982/83 is estimated at about 62.5 million hundredweight, about 5.2 percent above 1981/82. Export utilization is forecast at 91.2 million hundredweight, an 11 percent increase over 1981/82 levels due to the carry-over of export sales from 1981/82. Export sales in 1982/83 are projected to be unchanged from 1981/82 due to continued high stock levels in major exporting countries and adequate to high stocks in countries which traditionally purchase U.S. rice. U.S. exports for 1982/83 may vary markedly from this forecast should the Asian harvests occurring from October through December fall short of expected levels.

Given these estimated levels of production and utilization for 1982/83, ending stocks of rice will be about 43.5 million hundredweight, about 11 percent lower than the record-level ending stocks on 1981/82 (48.9 million hundredweight). The 1982/83 ending stocks level represents about 27 percent of a total utilization of 163.7 million hundredweight.

In the absence of an ARP for 1983 crop rice, it is estimated that planted acreage would approximate the 1981

crop level, or 3.85 million acres. Rice has historically been a more profitable enterprise than competing crops, and this relationship is assumed to continue for the 1983 crop. Yields for such acreage are estimated at 4,640 pounds per acre, resulting in total production of about 177 million hundredweight, and combined with carrying stocks of about 44 million hundredweight, a total supply for 1983/84 of about 221 million hundredweight.

Domestic food use for 1983/84 is expected to increase at about the same rate as in recent years. The projected 4 percent increase for 1983/84 is attributed to increasing industrial and direct food use, and is largely in proportion to population increases. Export utilization for 1983/84 is forecast to decline from the 1982/83 level should the 1983 crop loan rate increase.

Total demand for the 1983/84 marketing year is, therefore, projected at about 159 million hundredweight, This will result in ending stocks of approximately 62 million hundredweight—about 39 percent of total utilization for the year. This assessment could change if the 1982 crop marketings and the anticipated world rice trade depart from estimated levels.

The options under consideration at this time are: (a) a 15 percent acreage reduction program combined with a 5 percent land diversion program; and (b) a 25 percent combined acreage reduction and land diversion program.

Comments and supporting data are requested on (a) the appropriate level of a combined acreage reduction and land diversion program for the 1983 crop of rice; and (b) an appropriate level of ending stocks, expressed as a percentage of total utilization, which is not considered excessive.

In addition, USDA is considering allowing acreage on which permanent conservation practices are installed to be eligible as conserving use acreage for a three year period. Such acreage would be eligible for cost-share payments through the Agricultural Conservation Program. Comments on this option are requested.

4. *Whether to Allow Haying and Grazing of Conservation Use Acreage.* Section 101(i)(5)(A) of the Act provides that the regulations issued by the Secretary with respect to acreage required to be devoted to conservation uses shall assure protection of such acreage from weeds and wind and water erosion.

With respect to the 1982 crop rice acreage reduction program, participants were permitted to produce crayfish, catfish, and minnows or to graze the conservation use acreage except during the six principal growing months. In addition, specific cover crops and practices were developed at the local county ASC committee level and approved by the State ASC committee and the State conservationist for the 1982 conservation use acreage.

For the 1983 crop, proposals to coordinate conservation concerns with the production adjustment program include the following: (a) Expanding the definition of land which is eligible to satisfy ARP conservation use requirements; (b) allowing 1982 conservation use acreage to be included in the cropland base for subsequent programs; (c) giving priority for cost-sharing for conservation programs to practices installed on conservation use acreage; and (d) permitting haying and grazing within approved guidelines on conservation use acreage.

Interested persons are invited to comment on the grazing and haying of conservation use acreage and the conservation measures applied to land removed from production under the 1982 acreage reduction programs. Also, comments are requested on what changes may be necessary to provide a greater degree of compatibility and coordination between conservation and acreage reduction programs.

5. *The Land Diversion Payment Rate.* Section 101(i)(5)(B) of the Act provides that the Secretary shall implement a land diversion program for the 1983 crop of rice under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of rice whose acreage planted to rice for harvest on the farm is reduced so that it does not exceed the rice acreage base for the farm less an amount equivalent to 5 percent of the rice acreage base in addition to the reduction under the acreage limitation program, and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the rice acreage base under the combined acreage limitation and land diversion program. Such payments shall be made in an amount computed by multiplying (a) the diversion payment rate, by (b) the farm program payment yield for the crop, by (c) the additional acreage diverted under the land diversion program. The diversion payment rate shall be established by the Secretary at not less than $3.00 per hundredweight, except that the rate may be reduced up to 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 percent of any land diversion payment to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determinations of performance, but in no event prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advanced land diversion payment, the producer shall repay the advance immediately and in accordance with regulations issued by the Secretary, pay interest on the advance. As noted under item 3 of this proposed determination the options under consideration at this time are: (a) A 5 percent land diversion requirement combined with a 15 percent acreage reduction requirement; and, (b) a 25 percent combined land diversion and acreage reduction requirement. Two payment rate options under consideration are: (a) $2.70 per hundredweight; and (b) $3.00 per hundredweight.

Interested persons are encouraged to comment regarding the appropriate land diversion payment rate for the combined land diversion and acreage reduction program for the 1983 crop of rice.

6. *Whether to Require Offsetting Compliance.* Under Section 101(i) of the 1949 Act, the Secretary may implement offsetting compliance requirements as a condition of eligibility for program benefits. If offsetting compliance is required, operators and owner of farms would have to ensure that all of their farms were complying with applicable program requirements such as planting within the established rice acreage bases established for the farms in order to be eligible for program benefits. Offsetting compliance was not in effect for the 1982 crop.

Interested persons are encouraged to comment on the need for the Secretary to require offsetting compliance for the 1983 crop of rice.

7. *Other Related Provisions.* A number of other determinations must be made in carrying out the rice loan and purchase programs such as: (a) Commodity eligibility; (b) storage requirements; and (c) such other provisions as may be necessary to carry out programs.

Consideration will be given to any data, views and recommendations that may be received relating to the above items.

Signed at Washington, D.C. October 21, 1982.

Everett Rank,
Administrator.

[FR Doc. 82-29350 Filed 10-25-82; 8:45 am]
BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 202]

Resolution and Order Approving the Application of the Greater Burlington Industrial Corporation for a Foreign-Trade Subzone in St. Albans, Vt., Within the St. Albans Customs Port of Entry

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

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board, has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Greater Burlington Industrial Corporation, grantee of Foreign-Trade Zone 55, filed with the Foreign-Trade Zones Board (the Board) on June 25, 1981, requesting authority to establish a special-purpose subzone or the garment manufacturing facility of Pedigree USA, Inc., in St. Albans, Vermont, within the St. Albans Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application subject to the following conditions: (1) transformation of foreign merchandise resulting in a change of the country of origin is prohibited; (2) the operations shall be conducted in a manner compatible with the administration of textile and apparel quotas and visas.

As the proposal involves the possible construction of expanded facilities by parties other than the grantee, this approval includes authority to the grantee to permit such construction pursuant to section 400.815 of the Board's regulations, providing that prior to its granting permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation other than ornamenting and finishing of skiwear within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority to Establish a Foreign-Trade Subzone in St. Albans, Vermont, Within the St. Albans Customs Port of Entry

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

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

Whereas, the Greater Burlington Industrial Corporation, grantee of Foreign-Trade Zone 55, Burlington, Vermont, has made application (filed June 25, 1981) indue and proper form to the Board for authority to establish a special-purpose subzone at the garment manufacturing facility of Pedigree USA, Inc. in St. Albans, Vermont, within the St. Albans Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard;

Whereas, the Board, pursuant to its authority to restrict or prohibit operations detrimental to the public interest (19 U.S.C. 81o), considered the possible impact of the proposed subzone on the Textile and Apparel Import Quota Program; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied and that the proposal would be in the public interest if certain restrictions are adopted;

Now, therefore, in accordance with the application filed June 25, 1981, the Board hereby authorizes the establishment of a subzone at the manufacturing facility of Pedigree USA, Inc. in St. Albans, Vermont, designated on the records of the Board as Foreign-Trade Subzone 55A at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

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

Any manufacturing at the facility which results in a change in the country of origin of foreign merchandise shall be prohibited. All operations within the subzone shall be conducted in a manner compatible with the administration of textile and apparel quotas and visas.

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

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

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

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 20th day of October 1982 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-29363 Filed 10-25-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Carbon Steel Wire Rod From Brazil; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation—Carbon Steel Wire Rod from Brazil.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether carbon steel wire rod ("wire rod") from Brazil is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission ("ITC") of this action so that it may determine whether imports of this merchandise are materially injuring, or are threatening to materially

injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before November 15, 1982, and we will make ours on or before March 9, 1983.

EFFECTIVE DATE: October 26, 1982.

FOR FURTHER INFORMATION CONTACT: John Brinkman, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 377–4929.

SUPPLEMENTARY INFORMATION:

The Petition

On September 30, 1082, we received a petition from counsel for Atlantic Steel Company, Continental Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, and Raritan River Steel Company on behalf of the domestic wire rod industry. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. Critical circumstances have been alleged under section 733(e) of the Act. We will make a determination regarding this issue on or before the date of our preliminary determination. The allegation of sales at less than fair value is supported by comparisons of a United States price (estimated by the petitioner and adjusted for ocean freight, handling, off-loading, and United States duty) on sales of the merchandise in the United States with Brazilian f.o.b. home market price (based on price quotations) on sales made in Brazil.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on wire rod and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping investigation to determine whether wire rod from Brazil is being, or is likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by March 9, 1983.

Scope of the Investigation

The merchandise covered by this investigation is carbon steel wire rod, a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured, and valued over 4 cents per pound. Wire rod is generally drawn through dies into wire. It may be marketed as such or further fabricated into wire-derived products such as shopping carts, bicycle spokes, and upholstery springs. Wire rod is currently classifiable under item 607.17 of the *Tariff Schedules of the United States* (TSUS).

Notification to ITC

Section 732(d) of the Act requires us to notify the United States International Trade Commission of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will detemine by November 15, 1982, whether there is a reasonable indication that imports of wire rod from Brazil are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

October 20, 1982.

[FR Doc. 82–29360 Filed 10–25–82; 8:45 am]

BILLING CODE 3510–25–M

Carbon Steel Wire Rod From Trinidad and Tobago; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation—carbon steel wire rod from Trinidad and Tobago.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether carbon steel wire rod ("wire rod") from Trinidad and Tobago is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission ("ITC") of this action so that it may determine whether imports of this merchandise are materially injuring, or are threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before November 15, 1982, and we will make ours on or before March 9, 1983.

EFFECTIVE DATE: October 26, 1982.

FOR FURTHER INFORMATION CONTACT: John Brinkman, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–4929.

SUPPLEMENTARY INFORMATION:

The Petition

On September 30, 1982, we received a petition from counsel for Atlantic Steel Company, Continental Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, and Raritan River Steel Company, on behalf of the domestic wire rod industry. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Trinidad and Tobago are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value is supported by comparisons of a United States price (estimated by the petitioner and adjusted for ocean freight, United States unloading and wharfage, United States duty, handling, loading and United States reloading, and insurance) on sales of the merchandise in the United States with Trinidadian f.o.b. home market price (based on actual transactions) on sales made in Trinidad and Tobago.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on wire rod and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping investigation to determine whether wire rod from Trinidad and Tobago is being, or is likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by March 9, 1983.

Scope of the Investigation

The merchandise covered by this investigation is carbon steel wire rod, a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured, and valued over 4 cents per pound. Wire rod is generally drawn through dies into wire. It may be marketed as such or further fabricated into wire-derived products such as shopping carts, bicycle spokes, and upholstery springs. Wire rod is currently classifiable under item 607.17 of the *Tariff Schedules of the United States* (TSUS).

Notification to ITC

Section 732(d) of the Act requires us to notify the United States International Trade Commission of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by November 15, 1982, whether there is a reasonable indication that imports of wire rod from Trinidad and Tobago are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration

October 20, 1982.

[FR Doc. 82-29361 Filed 10-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Illinois; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(b) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00184. Applicant: University of Illinois, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, Illinois 61801. Instrument: Excimer Pumped Dye Laser System consisting of EMG 101, FL 2002 and FL 52. Manufacturer: Lambda Physik GmbH & Co., West Germany. Intended use of Instrument: See Notice on page 25395 in the **Federal Register** of June 11, 1982.

Comments: No comments have been received with respect to this application.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (February 19, 1981).

Reasons: This application is a resubmission of Docket Number 81-00185 which was denied without prejudice to resubmission on January 26, 1982 for informational deficiencies. The foreign instrument provides (a) high output energies in the ultraviolet (312-370 nanometers), (b) high repetition rates (50 Hz), (c) narrow line width 0.03 centimeters and (d) 10-20 nanosecond pulse duration pulses. The National Bureau of Standards advises in its memorandum dated August 26, 1982 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was available at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-29319 Filed 10-25-82; 8:45 am]

BILLING CODE 3510-25-M

Monsanto Research Corp.; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00060. Applicant: Monsanto Research Corporation, Mound Facility, Operated for the U.S. Department of Energy, Mound Road, Miamisburg, OH 45342. Instrument: X-Ray Photoelectron Spectrometer, X-SAM 800. Manufacturer: Kratos Scientific Instruments, United Kingdom. Intended use of instrument: See Notice on page 4720 in the **Federal Register** of February 2, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) High sensitivity x-ray signals of at least 40,000 counts/second on silver $3d^{5/2}$ at equal to or greater than 0.9 electron volts excited by MgK and (2) X-ray monochromator. The National Bureau of Standards advises in

its memorandum dated June 16, 1982 that (1) the capabilities of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-29311 Filed 10-25-82; 8:45 am]

BILLING CODE 3510-25-M

Monsanto Research Corp., Mound Facility; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00116. Applicant: Monsanto Research Corp., Mound Facility, Mound Road, Miamisburg, Ohio 45342. Instrument: CXP-200 Nuclear Magnetic Resonance Spectrometer. Manufacturer: Bruker Analytik GMBH, West Germany. Intended use of instrument: See Notice on page 13393 in the **Federal Register** of March 30, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (November 5, 1981).

Reasons: The foreign instrument provides the power (one kilowatt) and broadband capabilities needed for the work. The National Bureau of Standards advises in its memorandum dated July 27, 1982 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was available at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manfactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-29312 Filed 10-25-82; 8:45 am]

BILLING CODE 3510-25-M

The Oregon Health Sciences University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00248. Applicant: The Oregon Health Sciences University, 3181 S.W. Jackson Park Road, Portland, Oregon 97201. Instrument: Laser Doppler Analytical Electrophoresis Apparatus. Manufacturer: Malvern Instruments, Ltd., United Kingdom. Intended use of instrument: See Notice on page 33527 in the **Federal Register** of August 3, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument accurately determines the cell surface charge using an automated laser doppler method of measurement. The Department of Health and Human Services advises in its memorandum dated August 25, 1982 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-25315 Filed 10-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Utah; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs, Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00153. Applicant: University of Utah, Salt Lake City, UT 84112. Instrument: Nanosecond Excitation Lamp. Manufacturer: Photochemical Research Associates, Canada. Intended use of instrument: See Notice on page 21903 in the **Federal Register** of May 20, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a frequency stability of 0.1 percent (%), an amplitude stability of 5%, and a pulse width equal to 2.5 nanoseconds in air. The National Bureau

of Standards advises in its memorandum dated July 13, 1982 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-29313 Filed 10-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Wisconsin-Parkside; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00229. Applicant: University of Wisconsin-Parkside, P.O. Box 2000, Kenosha, WI 53141. Instrument: Counter Current Distribution Apparatus. Manufacutrer: Chemical Center Workshop, University of Lund Sweden. Intended use of instrument: See Notice on page 30537 in the **Federal Register** of July 14, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides Albertson type counter current two-phase partitioning with its precisely machined partitioning plates. The Department of Health and Human Services advises in its memorandum dated August 25, 1982 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-29316 Filed 10-25-82; 8:45 am]

BILLING CODE 3510-25-M

Office of the Secretary

Performance Review Board; Appointment

Phillip B. Ladd has been appointed as a member of the Office of the Secretary Performance Review Board. This is in accordance with the Senior Executive Service Performance Appraisal System.

Jo Ann Sondey-Hersh,

Executive Secretary, Office of the Secretary, Performance Appraisal System.

[FR Doc. 82-29255 Filed 10-25-82; 8:45 am]

BILLING CODE 3510-BS-M

COMMODITY FUTURES TRADING COMMISSION

MidAmerica Commodity Exchange: Proposed Amendments Relating to the Live Cattle Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The MidAmerica Commodity Exchange has submitted a proposal to adopt a certificate delivery system for its live cattle futures contract which would be analogous to the certificate delivery system proposed by the Chicago Mercantile Exchange for its live cattle futures contract (47 FR 36007 (August 18, 1982)). The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance. In addition, the MidAmerica Commodity Exchange has submitted a proposed rule to permit pass-through deliveries between it and the Chicago Mercantile Exchange. Although this proposal is not of major economic significance, it is being published below in order to provide commentators with a more comprehensive understanding of the overall delivery system. Accordingly, publication of the proposals is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before November 26, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the MidAmerica Commodity Exchange, Chapter 13.

FOR FURTHER INFORMATION CONTACT: Robert Clark, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. (202) 254-7303.

SUPPLEMENTARY INFORMATION: The MidAmerica Commodity Exchange ("MCE" or "Exchange") is proposing to amend Chapter 13 of its live cattle futures contract. The MCE proposes to adopt a certificate delivery system for its live cattle contract which would be analogous to the certificate delivery system recently proposed by the Chicago Mercantile Exchange ("CME") for its live cattle futures contract. *See*, 47 FR 36007. Currently, the terms and conditions of the MCE's 20,000 lb. "job lot" cattle contract parallel the terms and conditions of the CME's 40,000 lb. "round lot" cattle contract. As a result, according to the MCE, activity in a two-for-one MCE to CME contract inter-market spread has developed. In order to facilitate continued inter-market spread activity, MCE is proposing a revised delivery system conforming to that proposed by the CME and a pass-through delivery mechanism involving deliveries taken on one exchange and redelivered on the other.

The primary features of the MCE's proposed live cattle delivery system include an extension of the delivery process from one day to three days and new provisions providing for delivery certificates and procedures for retenders, demand notices, and reclaim notices applicable to such certificates. Under the Exchange's proposed system, a short trader would tender a certificate of delivery to the clearing house three business days before the intended date of physical delivery of the live cattle. Prior to the intended delivery date, a

certificate can be retendered twice by the receivers. To retender, a receiver must establish a short position and pay a retender charge of $300 per contract, which accrues to the next receiver of the certificate. A long trader may present a demand notice for a certificate that has been tendered or retendered, and such traders will have priority over other longs in the assignment of certificates. A short trader who has tendered a certificate may, prior to delivery day, establish a long position and reclaim his own certificate if it has been retendered and if it has not already been assigned to the issuer of a demand notice. Certificates may be tendered from the third business day prior to the first business day of the delivery month until the third business day prior to the last business day of the delivery month. All of these proposed delivery features are identical to the CME's proposals, except that the retender charge per contract is one-half of the CME retender charge, reflecting the smaller contract size at the MCE.

The MCE's proposal also provides for a pass-through mechanism for the delivery of live cattle. This mechanism would permit an inter-market spreader to pass immediately two combined job lot delivery units from the MCE to the CME in a round lot unit of 40,000 lbs. if the two job lots are received at the MCE by the spreader from the same delivering short, in the same yard, and on the same day. Also, a round lot received at the CME by a spreader could be delivered immediately as a single unit against two job lot contracts at the MCE if the delivery is assigned to a long trader who holds two or more contracts. The Exchange states that the pass-through mechanism, which is currently in effect for hog futures trading on the MCE, would facilitate deliveries of live cattle on both the MCE and CME. In those cases in which the pass-through mechanism is applicable, it would eliminate the lags which occur when lots of cattle received by an inter-market spreader on one exchange must be combined or divided before redelivery on the other exchange. The Exchange indicates that this would lessen the strain, stress, shrinkage, and other deteriorating elements inherent in the delivery of live animals.

The proposed amendments to the live cattle contract would become effective immediately after Commission approval for all contract months subsequently listed by the Exchange for trading, but would not be applicable to currently listed months.

In accordance with Section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (Supp. IV 1980), the commission has determined that proposed Rules 1303 and 1304 submitted by the MCE concerning its live cattle futures contract are of major economic significance and that proposed Rule 1306, although not of major economic significance, is necessary for a full understanding of the proposed changes. Accordingly, the MCE's proposed amendments are printed below, using brackets to indicate deletions and italics to indicate additions.

* * * * *

1303. [SELLER'S DUTIES—A seller intending to make delivery shall present to the clearing house a written notice of intent to deliver on a form prescribed by the clearing house and such notice must be delivered to the clearing house not later than 1:00 P.M. one business day prior to actual delivery. The buyer shall be notified by the clearing house not later than 2:30 P.M. of said day.

On the day of delivery, the seller shall promptly furnish to the buyer:

1. An official livestock yards receipt properly identified by lot number and/or pen number, number of head of cattle, net weight of cattle and date received.

2. Official United States Department of Agriculture quality grade, estimated average hot yield, estimated yield grade, and weight certificate.

3. Delivery order.

The Department of Inspections and Deliveries may require that the point of origin of cattle be shown on the notice of intent to deliver or other documents.]

PROCEDURES FOR TENDER, DEMAND, RETENDER, RECLAIM, AND ASSIGNMENT OF CERTIFICATES OF DELIVERY—

A. Tendering a Certificate— A clearing member representing a short may present a Certificate of Delivery (on a form prescribed by the clearing house) to the clearing house no later than 11:00 A.M. on the third business day prior to any delivery day; provided that a clearing member representing a short taking delivery on the Chicago Mercantile Exchange and making delivery on MidAmerica pursuant to rule 1306.B.2. shall present a Certificate of Delivery no later than 5:00 P.M. on the third business day prior to any delivery day. A Certificate of Delivery is a commitment to deliver cattle conforming with contract specifications at the delivery point designated in the Certificate on the third business day which is also a delivery day following the tender of that Certificate if the Certificate is not reclaimed. Each Certificate of Delivery shall include the information required under 1306.B.1.a. and 1306.B.2.a. below and all information which may be required by the Exchange including the name, telephone number and person responsible of the bonded livestock commission firm delivering cattle on behalf of the short.

B. Demand Notice—A clearing member representing a long may present a Demand Notice for the purpose of securing priority in the assignment of a Certificate of Delivery. The following rules govern Demand Notices:

1. The Demand Notice shall be presented to the clearing house (on a form prescribed by the clearing house) by 11:30 A.M. on any business day on which Certificates are tendered or retendered.

2. The Demand Notice shall specify: the date the long position was established, the buyer's choices (if any) for delivery points, and the minimum accrued retender charges acceptable to the buyer.

3. A Certificate assigned to a Demand Notice may not be retendered.

4. A Demand Notice which is not assigned a Certificate on the day of presentation is void.

C. Retender—A clearing member representing a long that is assigned a Certificate may retender that Certificate. The following rules govern retender:

1. A Certificate may only be retendered twice. A long that has been assigned a Certificate which has been retendered twice must take delivery.

2. A Certificate that has been assigned to a Demand Notice may not be retendered.

3. A Certificate may not be retendered after the last trading day of the contract month.

4. A long assigned a Certificate must establish a short position in the delivery month and notify the clearing house of retender by 11:00 A.M. on the business day following assignment.

5. The retendering long will be assessed a retender charge of $.015 per pound ($300 per contract). The retender charges accrue to the Certificate and are payable to the long exercising the Certificate or to the reclaiming short.

D. Reclaim—A clearing member representing a short that has tendered a Certificate may reclaim that Certificate upon the first or second retender if there is no Demand Notice issued for that Certificate.

The reclaiming short must have established a long position in the contract month and must issue a Reclaim Notice (on a form prescribed by the clearing house) to the clearing

house by 11:30 A.M. on the day the Certificate is retendered.

E. Assignment of Certificates—The clearing house shall promptly assign Certificates and notify the clearing member representing the long on the day of tender or retender. Assignments shall be made in the following order:

1. Newly-tendered Certificates and retendered Certificates shall be assigned to Demand Notices which specify delivery points and retender charges which match those of the Certificate. In the case of duplication, the Certificate shall be assigned to the Demand Notice submitted by the long with the oldest long position. In the case of Demand Notices with long positions established on the same date, the time the Demand Notice was submitted to the clearing house will determine priority.

2. Retendered Certificates which have not been assigned to Demand Notices will be assigned to Reclaim Notices, if any.

3. Retendered Certificates and newly-tendered Certificates which have not been demanded or reclaimed will be assigned to long positions by matching the Certificates having the largest retender charges with the oldest long positions.

F. Payments for Tender and Retender—

1. All payments shall be by wire transfer of funds or by certified or cashier's check presented to the clearing house.

2. Payment for an assigned Certificate that is not retendered must be submitted to the clearing house by 12:00 noon on the business day after a tendered or retendered Certificate is assigned. The assignee shall submit payment equal to the settlement price on the day of assignment less accrued retender charges times the par weight, 20,000 pounds.

3. Payment received for a newly-tendered Certificate shall be retained by the clearing house until the Certificate is reclaimed or until cattle conforming with contract specifications are delivered.

4. The clearing house shall remit payment received for a retendered Certificate to the retenderer by the close of business on the business day following the day of retender.

1304. [BUYER'S DUTIES—A clearing member receiving a notice of intent to deliver may not liquidate the long position assigned delivery and must deposit with the clearing house, not later than 10:00 A.M. the following business day, a certified or cashier's check in an amount sufficient to meet the cost of delivery. This amount shall be determined by multiplying the weight of the contract, 20,000 pounds, by the settling price of the day the notice of intent to deliver is received.]

DELIVERY PROCEDURES—

A. Delivery Days—Delivery of live cattle must take place on the third business day which is also a delivery day folowing the initial tender of the Certificate. Delivery may be made on any business day of the contract month except that deliveries may not be made on the day preceding a holiday.

B. Seller's Duties—On the day of delivery, the seller shall promptly furnish the buyer a USDA Livestock Acceptance Certificate which shall include pen number, number of head, net weight of cattle, quality grade, estimated average hot yield, and estimated yield grade.

All deliveries on a single day at any one delivery facility for a single customer must be consigned to a single bonded livestock commission firm.

C. Payment—Upon the seller's fulfillment of the delivery in accordance with all conditions of the contract herein set forth, the clearing house shall release the retained funds to the seller. Title to each delivered unit shall pass to the buyer when the delivered unit is placed in the buyer's holding pen.

* * * * *

1306. DELIVERY—

A. Approved Stockyards—Deliveries of Exchange contracts of cattle can be made only from public livestock yards designated and approved for delivery by the Exchange.

A public livestock yard shall not be eligible for deliveries as an approved stockyard unless it is a stockyard within the definition of the Packers and Stockyards Act (chapter 9, United States Code, section 181–3, 201–217a, and 221–9) and has received notice to that effect from the Secretary of Agriculture.

Approved stockyards shall be required to keep such records, make such reports and be subject to inspection and regulation by the Secretary of Agriculture, as provided in the Packers and Stockyards Act.

B. Delivery Unit—Delivery shall be made in units of 20,000 pounds except that deliveries involving the taking of MidAmerica deliveries by a long, who is also making an equal quantity of deliveries on the Chicago Mercantile Exchange or the making of deliveries on the MidAmerica by a short taking an equal quantity of deliveries on the Chicago Mercantile Exchange may be combined for the purpose of such deliveries, and in accordance with the following pass-through provisions:

1. Pass-through deliveries from MidAmerica to the Chicago Mercantile Exchange—If a member is taking delivery on the MidAmerica Commodity Exchange and is making delivery on the Chicago Mercantile Exchange, and if the short is making delivery of two or more contracts for the same principal in the same yards on the same day, the long may demand of the short that the MidAmerica delivery units be combined into 40,000 pound units as hereinafter provided.

a. A clearing member who intends to make delivery of two or more contracts which are for the same principal, on the same day and in the same yards, must so indicate on each Certificate of Delivery.

b. A long accepting such notice may, before 1:15 P.M. on the day notice is received, require by a written "Buyer's" notice to the short and the clearing house that any two or any multiple of two of such deliveries be combined into one or more 40,000 pound contracts for delivery on the Chicago Mercantile Exchange. Such notice must indicate the name of the Chicago Mercantile Exchange clearing member in whose name the Chicago Mercantile Exchange delivery is to be made.

c. Upon receipt of such "Buyer's" notice from the long, the short shall instruct his livestock commission firm to submit the cattle for inspection to the Chicago Mercantile Exchange in accordance with Chicago Mercantile Exchange rules in the name of the Chicago Mercantile Exchange clearing member indicated on the "Buyer's" notice. The short shall thereupon consign to the commission firm in the name of the Chicago Mercantile Exchange clearing member, as specified in the "Buyer's" notice, two MidAmerica contract units, combined into a single lot, deliverable on the Chicago Mercantile Exchange. The short obligated to deliver a combined lot must deliver the entire combined lot on the day intended or incur the penalties provided under rule 1310. Such penalties shall apply to the entire combined lot.

d. The MidAmerica long, acting as agent for the MidAmerica short, shall deliver the combined lot on the Chicago Mercantile Exchange. The MidAmerica short shall be responsible for the delivered lot through the MidAmerica long and shall pay all expenses associated therewith until the delivery unit is graded, inspected, weighed and sealed by the inspectors. When the Chicago Mercantile Exchange delivery notice and delivery invoice is prepared, the MidAmerica long shall promptly delivery a copy thereof to the

MidAmerica clearing house and the MidAmerica short.

e. Upon receipt of the above documents and written notification of inspection, weighing, storage and expenses incurred, the clearing house shall make payment to the short.

f. The short shall promptly pay all fees actually incurred and paid by the long in connection with the delivery. Copies of actual billings from which the invoice was prepared must accompany the invoice.

g. The actual legal title and risk of ownership for the cattle shall not pass from the short to the long until the cattle have passed inspection and been accepted for delivery by the Chicago Mercantile Exchange.

2. Pass-through deliveries from the Chicago Mercantile Exchange to MidAmerica—If a member is taking delivery on the Chicago Mercantile Exchange and is making delivery on the MidAmerica Commodity Exchange, he may satisfy his MidAmerica delivery obligation by tendering the Chicago Mercantile Exchange delivery unit; provided, that the long is taking delivery of two or more contracts for the same principal.

a. A clearing member who intends to make delivery of two or a multiple of two contracts through a combined unit, must so specify on each Certificate of Delivery.

b. A long receiving such Certificate shall specify to the clearing house by 11:00 A.M. the following business day whether he has retendered said Certificate or has any open contracts which are for the same principals and, therefore, subject to combination.

c. Upon notification of such open contracts subject to combination, the short shall fulfill his MidAmerica Commodity Exchange delivery by releasing to the long, on the day of delivery, the combined unit received on the Chicago Mercantile Exchange as substitution for two MidAmerica contract units. Immediately upon being notified by the Chicago Mercantile Exchange that it has received title to the unit, the short shall order the stockyards company to release the unit directly to the long. In accepting the unit from the Chicago Mercantile Exchange, the short shall act as the long's agent, and title and all risk of loss shall pass to the long immediately upon the cattle being placed in a holding pen by the USDA inspector, acting for the Chicago Mercantile Exchange.

d. When the Chicago Mercantile Exchange delivery notice and delivery invoice are received by the short, he shall promptly deliver a copy thereof to the clearing house and the MidAmerica long.

e. A long shall receive the combined lot on the MidAmerica Commodity Exchange.

f. Upon receipt of the documents set forth in paragraph d above, the clearing house shall make payment to the short.

* * * * *

Other materials submitted by the MCE in support of the proposed rules may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contracts, or with respect to other materials submitted by MidAmerica in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, by November 26, 1982. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on October 21, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-29324 Filed 10-25-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Minnesota; Application

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Northern States Power Company has applied for a right-of-way easement to install, operate and maintain fuel-carrying pipeline in, through, and across the following United States Government-owned lands, said lands being a part of the Twin Cities Army Ammunition Plant, Minnesota: Ramsey County, Minnesota, T30N, R23W, Section 16.

The pipeline, in its entirety, will convey natural gas across a portion of Twin Cities Army Ammunition Plant so as to improve gas service to intrastate consumers.

The purpose of this publication is to inform the public that the Corps of Engineers will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Those persons who desire to make comments or objections should state their views in detail and send them to the District Engineer, Omaha District, Corps of Engineers, 6014 U.S. Post Office and Courthouse, Omaha, Nebraska 68102, within 30 days of the date of publication of this notice.

Grant L. Fredicks, LTC,

Corps of Engineers Commanding.

Dated: September 30, 1982.

Peter P. Pollreis,

Chief, Real Estate Division, Omaha District, Corps of Engineers.

[FR Doc. 82-28221 Filed 10-25-82; 8:45 am]

BILLING CODE 3710-10-M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the scheduled and proposed agenda of a forthcoming meeting of the full Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting.

DATES: Full Council Meeting: November 18, 1982, 9:00 a.m. to 5:00 p.m.; November 19, 1982, 9:00 a.m. to 5:00 p.m. and, November 20, 1982, 9:00 a.m. to 5:00 p.m.

ADDRESS: Hyatt Regency, 500 Poydras Plaza, New Orleans, Louisiana 70140 (504)561-1234.

FOR FURTHER INFORMATION CONTACT: Dr. Michael P. Doss, Executive Director, National Advisory Council on Indian Education, 425 13th Street, NW., Suite 326, Washington, DC 20004 (202)376-8882.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian

Education is established under Section 442 of the Indian Education Act, Title IV of Pub. L. 92-318, (20 U.S.C. 122g). The Council is established to submit to the Secretary of Education a list of nominees for the position of Director of Indian Education Programs, advise the Secretary of Education with respect to the administration of any program in which Indian children or adults participate from which they can benefit, review applications for assistance under Title III of the Act of September 30, 1950, and make recommendations to the Secretary with respect to their approval, evaluate programs and projects carried out under any program of the Department of Education in which Indian children or adults can participate or from which they can benefit and disseminate the results of such evaluations, provide technical assistance to local educational agencies and to Indian educational agencies, institutions and organizations, assist the Secretary of Education in developing criteria and regulations for the administration and evaluation of grants made under Section 303(b) of the Act of September 30, 1950, submit to Congress not later than June 30 of each year a report of its activities; and, be consulted by the Secretary of Education regarding the definition of the term Indian.

The meeting will be open to the public. This meeting will be held at the Hyatt Regency, 500 Poydras Plaza, New Orleans, Louisiana 70140 (504)561-1234.

The proposed agenda includes:

(1) To review and prepare official comments and recommendations to the Secretary of Education regarding the *Revised Report on the Definition of Indian.*

(2) Executive Director's report.

(3) Committee discussions and reports.

(4) Review of NACIE FY 1983 budget.

(5) Plans for future NACIE activities.

(6) Regular Council business.

(7) Action on previous minutes.

(8) Public testimony.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Indian Education located at 425 13th Street, N.W., Suite 326, Washington, D.C. 20004.

Date: October 20, 1982. Signed at Washington, D.C.

Michael P. Doss,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 82-29298 Filed 10-25-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL82-25-000]

Review of Municipal Hydropower Development; Revised Notice of Informal Public Conference

October 21, 1982.

The Commission will convene an informal conference to review the progress of municipal hydropower development since the Commission's decision in the *City of Fayetteville* proceeding.[1] Interested parties are encouraged to attend this conference and apprise the Commission of any matters affecting municipal hydropower development that they deem relevant for Commission consideration in light of its statutory duty to encourage the expeditious development of water power resources consistent with the public interest.

By notice of September 21, 1982, this conference, which was previously scheduled for November 5, 1982, is rescheduled to be held in Hearing Room A of the Federal Energy Regulatory Commission, 625 North Capitol Street, NE., Washington, D.C., commencing at 10:00 a.m. on November 16, 1982. Members of the public are welcome to attend.

The Commission is especially interested in the public's views on the various feasible contractual and other arrangements for the financing of hydropower projects by municipalities and current factors affecting such financing. Parties are encouraged to address the nature and extent of any constraints on financing and development imposed by current tax laws, economic conditions, the Federal Power Act and other relevant state or Federal requirements. Proposals to minimize the impact of any such constraints consistent with fundamental Commission statutory responsibilities are also solicited.

[1] In *City of Fayetteville Public Works Commission*, Project No. 3137 *et al.*, 16 FERC ¶ 61,209, (Sept. 16, 1981), the Commission declined to extend preference under Section 7(a) of the Federal Power Act (16 U.S.C. 800(a)) to applications filed jointly by municipal and non-municipal entities. In that decision, the Commission explained that "the preference afforded a municipality under Section 7(a) need not be jeopardized by contractual arrangements the municipality may make with non-municipal entities for assistance in financing, studying, constructing or operating a project. In order to retain its entitlement to municipal preference as the party who intends to be the licensee, the municipality must retain in such contractual relationships requisite control over the operation of the project and may not relinquish any property or other rights necessary for project purposes [footnote omitted]."

Any person wishing to present data or views to the Commission must so notify the Secretary of the Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 by November 8, 1982. When notifying the Secretary, each participant should submit a brief summary of his/her interest and the issues to be addressed in his/her statement. Parties who previously indicated their intent to attend this conference when it was scheduled for November 5, need not renotify the Secretary unless they will be unable to attend the November 16 conference.

Participants are also requested to prepare written statements in order to insure that the Commission will have the benefit of their views even if time constraints limit or preclude an oral presentation of their comments. These written statements will be made part of the record, and participants should be prepared to deliver only a summary of their comments at the conference. Original and fourteen copies of any prepared statement should be filed with the Secretary of the Commission by November 8, 1982, and should refer to Docket No. EL82-25-000.

A transcript of the conference will be made and will be available to the public through the Commission's Office of Congressional and Public Affairs, Division of Public Information. The Commission expects to utilize the information and views gathered in this conference to expand its technical expertise to deal with various policy issues relevant to municipal hydropower development. The Commission may utilize the information gained from this conference in future rulemaking or adjudicatory proceedings. In any adjudicatory proceeding in which the Commission relies on the transcript in this proceeding, the Commission intends to incorporate the transcript by reference and afford affected parties an opportunity to respond thereto.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-29358 Filed 10-25-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59101A; TSH-FRL 2233-7]

Modified Polyurethanes; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received applications for test marketing exemptions (TM-82-48 and TM-82-49) under section 5 of the Toxic Substances Control Act (TSCA) on September 16, 1982. Notice of receipt of the applications was published in the **Federal Register** of September 24, 1982 (47 FR 42151). EPA has granted the exemptions.

EFFECTIVE DATE: These exemptions are effective on October 14, 1982.

FOR FURTHER INFORMATION CONTACT: Rachel Diamond, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-203, 401 M St., SW., Washington, D.C. 20460, (202-382-3734).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On September 16, 1982, EPA received two applications for exemptions from the requirements of sections 5(a) and 5(b) of TSCA to manufacture two new chemical substances for test marketing purposes. The applications were assigned test marketing exemption numbers TM-82-48 and TM-82-49. The submissions are for new chemicals described generically as modified polyurethanes. The submitter claimed the company identity and the specific chemical identities as confidential business information. A maximum of 800 kilograms (kg) of each new chemical substance will be manufactured for use as binders in electron beam-curable coatings. A maximum of five customers will test the fully formulated coatings for a period not to exceed 8 months. During manufacture, two workers may be exposed to each substance, for 7 hours total per worker. During use of the formulated products, five workers per shift per customer may be involved. No consumer exposure to the TME substances is expected, and environmental release will be negligible. A notice published in the **Federal Register** of September 24, 1982 (47 FR 42151) announced receipt of these applications and requeted comment on the appropriateness of granting the exemptions. The Agency did not receive any comments concerning these applications.

EPA has established that the test marketing of the new chemical substances submitted in TM-82-48 and TM-82-49, will not present any unreasonable risk of injury to health or the environment under the specific conditions set out in the applications. No significant health or environmental effect concerns for either substance were identified by EPA.

These test marketing exemptions are granted based on the facts and information obtained and reviewed, but are subject to all conditions set out in the exemption applications and, in particular, those enumerated below.

1. These exemptions are granted solely to this manufacturer.
2. The applicant must maintain records of the date(s) of shipment(s) to the customers and the quantities shipped in each shipment, and must make these records available to EPA upon request.
3. Each bill of lading that accompanies a shipment of the substances during the test marketing period must state that the use of the substances is restricted to that described to EPA in the test marketing exemption applications.
4. The production volume of each new substance may not exceed the quantity of 800 kg described in the test marketing exemption applications.
5. The test marketing activity approved in this notice is limited to an 8-month period commencing on the date of signature of this notice by the Director of the Office of Toxic Substances.
6. The number of workers exposed to the new chemicals and the duration of exposure should not exceed that specified in the applications.

The Agency reserves the right to rescind its decision to grant these exemptions should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of these substances under the conditions specified in the applications will not present an unreasonable risk of injury to human health or the environment.

Dated: October 14, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc.82-29334 Filed 10-25-82; 8:45 am]

BILLING CODE 6560-50-M

Region 6; Final Agency Action on a PSD Permit for E. I. du Pont de Nemours and Company

Notice is hereby given that on April 28, 1981, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, number PSD-LA-335, to the E. I. du Pont de Nemours and Company for approval to modify the existing chemical process plant located approximately 1.5 miles west of La Place, Louisiana, off U.S. Highway 61, pursuant to 40 CFR 52.21. On June 3, 1981, E. I. du Pont de Nemours and Company petitioned the Administrator for review of their PSD permit.

Because a petition for review was filed with the Administrator, the issuance of the permit was no longer a final agency action and the PSD permit for TEX-USS was not effective. *See* 40 CFR 124.15(b)(2). The petition for review was denied by the Administrator on July 19, 1982. Pursuant to 40 CFR 124.19(f)(1), a final permit decision on PSD-TX-336 was issued by Region 6 on September 22, 1982.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-LA-108 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of all of the materials concerning PSD-LA-335 are available for public inspection upon request at the following location: Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Dated: October 4, 1982.

Dick Whittington, P.E.,

Regional Administrator, Region 6.

[FR Doc. 82-29332 Filed 10-25-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Forms Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of forms submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

TITLE OF INFORMATION COLLECTION: Consolidation Reports of Condition and Consolidated Reports of Income (State Banks not members of the Federal Reserve System).

BACKGROUND: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF-83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments may be sent to Mr. Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429 and to Mr. Richard Sheppard, Reports Management Branch, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503. Comments should be received within 60 days following publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: For a complete copy of the "Request for OMB Review" or related information, contact Dr. Panos Konstas, Information Clearance Officer, FDIC, telephone (202) 389-4351.

SUMMARY: The proposed information collections are to commence with the reports that will be filed as of March 31, 1983. Conceptually, two different types of collections are proposed here, with one type involving the addition of two new schedules to the Report of Condition and the other relating to the frequency of collection for the Report of Income.

The two schedules to be added are: Supervisory Supplement 2—"Repricing Opportunities for Selected Balance Sheet Categories" and Supervisory Supplement 3—"Commitments and Contingencies." The FDIC will collect these two supplements from all 8,930 insured state nonmember commercial banks. The frequency change affects banks with assets below $300 million. Presently, these banks submit Reports of Income in June and December of each year. It is proposed that, beginning in 1983, these banks will submit Reports of Income four times a year, the same frequency as for banks with assets of $300 million and over. This change in frequency affects 8,700 of the 8,930 FDIC-supervised banks. At the same time, most of Report of Income Section B, "Changes in Equity Capital," will be eliminated for all banks regardless of size.

Information collected in this proposal will be used for specific supervisory purposes, including the scheduling, planning, and conducting of onsite bank examinations, and for the effective discharge of the FDIC's responsibilities as the insurer of state nonmember, state member, and national banks.

It is estimated that the collection of Supplements 2 and 3 will create a reporting burden of 11 hours per filing for each of the 8,930 respondent banks; the increased frequency of collection of the Report of Income will increase the burden by a net of about 4.5 hours per filing.

Dated: October 18, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82-29299 Filed 10-25-82; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-190]

Peoples Federal Savings and Loan Association, Bartlesville, Oklahoma; Final Action Approval of Conversion Applications

Dated: September 10, 1982.

Notice is hereby given that on September 10, 1982, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Peoples Federal Savings and Loan Association, Bartlesville, Oklahoma, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Topeka, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-29316 Filed 10-25-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-191]

Ponce De Leon Federal Savings and Loan Association, Coral Gables, Florida; Final Action Approval of Conversion Applications

Dated September 10, 1982.

Notice is hereby given that on September 22, 1982, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Ponce de Leon Federal Savings and Loan Association, Coral Gables, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street, NW., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board

J. J. Finn,

Secretary.

[FR Doc. 82-29319 Filed 10-25-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-189]

Victor Federal Savings and Loan Association, Muskogee, Oklahoma; Final Action Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Dated: September 2, 1982.

Notice is hereby given that on September 20, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board") acting pursuant to the authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of Victor Federal Savings and Loan Association, Muskogee, Oklahoma ("Association"). The application had been approved by the Board by Resolution No. 81-687, November 16, 1981. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Topeka, 3 Townsite

Plaza, 120 East 6th Street, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-29317 Filed 10-25-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-192]

Standard Savings Association, Houston, Texas; Final Action Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Dated: September 24, 1982.

Notice is hereby given that on September 24, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of Standard Savings Association, Houston, Texas ("Association"). The application had been approved by the Board by Resolution No. 82-374, dated May 21, 1982. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-29320 Filed 10-25-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-195]

American Federal Savings and Loan Association of Colorado, Pueblo, Colorado; Final Action Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Dated: October 12, 1982.

Notice is hereby given that on October 13, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of American Federal Savings and Loan Association of Colorado, Pueblo, Colorado ("Association"). The application had been approved by the Board by Resolution No. 80-516, dated August 15, 1980. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Topeka, No. 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas 66603.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-29323 Filed 10-25-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-193]

American Home Savings & Loan Association, St. Louis, Missouri; Final Action Approval of Conversion Applications

Dated: October 7, 1982.

Notice is hereby given that on October 7, 1982, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of American Home Savings and Loan Association, St. Louis, Missouri, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Des Moines, 907 Walnut Street, Des Moines, Iowa 50309.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-29321 Filed 10-25-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-194]

First City Federal Savings and Loan Association, Bradenton, Florida; Final Action Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Dated: October 12, 1982.

Notice is hereby given that on October 15, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 3 to the mutual-to-stock conversion application of First Federal Savings and Loan Association, Bradenton, Florida ("Association"). The application had been approved by the Board by Resolution No. 81-32, dated January 21, 1981. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street, NW., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-29322 Filed 10-25-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. 9375]

Sailing Agreement

Notice of Cancellation

Filing party: Martin Torbiak, Manager, Rate Information, Farrell Lines, One Whitehall Street, New York, N.Y. 10004.

Summary: On October 13, 1982 the Commission received notice from Farrell Lines to cancel its Agreement No. 9375 with the Belgian Line. Accordingly Agreement No. 9375 is cancelled effective October 13, 1982, the date the notice was received by the Commission.

Delta Steamship Lines, Inc., the Northern Pan-America Line, A/S, Compagnie Maritime Belge, S.A., Compagnie Maritime du Zaire, S.A.R.L., Compagnie Maritime des Chargeurs Reunis S.A., and Elder Dempster Lines Limited

Notice of Cancellation

Filing party: Henry X. Diercxsens, Executive Vice President, Atlantic Overseas Corporation, Five World Trade Center, New York, N.Y. 10048.

Summary: On October 13, 1982 the Commission received notice from the agent for Elder Dempster Lines to cancel Agreement No. 9966, a rationalization of sailings agreement in the U.S. Gulf/West Africa trade. Previously, by letter dated August 25, 1982, Delta Steamship Lines advised the Commission that it did not oppose the agreement's termination. The other named parties to Agreement No. 9966 no longer collectively rationalize their sailings in the agreement trade. Therefore, the agreement will be terminated effective October 13, 1982, the date the notice from the agent for Elder Dempster Line was received by the Commission.

Flomerca Trailer Service and Pan Atlantic Line, Inc.

Notice of Cancellation of Agreement No. 10102

Agreement No. 10102, approved May 21, 1974, authorized the transportation of

general cargo under through bills of lading from loading ports of Flomerca Trailer Service at Santo Tomas, Guatemala and Puerto Cortes, Honduras with transshipment at Miami, Florida to Pan Atlantic Line, Inc. for discharge at ports in the U.S. Virgin Islands.

By letter dated August 6, 1982, the agent representing Flomerca Trailer Service in 1974 and who now represents Pan Atlantic Line was notified of the Commission's concern that Agreement No. 10102 appeared to be inactive and that the Commission proposed to terminate the agreement unless the Commission was notified that the agreement was still active. To date, no response has been received to the Commission's letter of August 6, 1982. Therefore, it appears that Agreement No. 10102 is no longer active and that the agreement should be terminated. Accordingly, notice is hereby given that Agreement No. 10102 will be terminated effective 15 days following publication of this notice in the **Federal Register.**

The U.S. Atlantic/Honduras and Guatemala Rate Agreement

Notice of Cancellation of Agreement No. 10131

Agreement No. 10131, approved August 21, 1974, established a rate agreement between Transportacion Maritima Mexicana, S.A. (Mexican Line) and Flota Mercante Gran Central Americana, S.A. (Flomerca Line) to govern their transportation of freight between ports in the United States in the range from Calais, Maine, to Jacksonville, Florida, inclusive, and Atlantic ports in Honduras and Guatemala.

By letter dated August 6, 1982, counsel representing the agreement parties in 1974 was notified of the Commission's concern that Agreement No. 10131 appeared to be inactive and that the Commission proposed to terminate the agreement unless counsel notified the Commission that the agreement was still active. To date, no response has been received to the Commission's letter of August 6, 1982. Therefore, it appears that Agreement No. 10131 is no longer active and that the agreement should be terminated. Accordingly, notice is hereby given that Agreement No. 10131 will be terminated effective 15 days following publication of this notice in the **Federal Register.**

North Atlantic Government Cargo Discussion and Self-Policing Agreement

Notice of Cancellation of Agreement No. 10138

Filing party: Howard A. Levy, Esq., Attorney For Agreement No. 10138, Suite 727, 17 Battery Place, New York, New York 10004.

Summary: On October 15, 1982, the Commission received notice to cancel Agreement No. 10138 between Lykes Bros. Steamship Co., Inc. and Sea-Land Service, Inc. Therefore, the agreement has been terminated effective October 15, 1982, the date the notice was received by the Commission.

Lykes Bros. Steamship Co., Inc. and O.N.E. Shipping Ltd.

Notice of Cancellation of Agreement No. 10191

Filing party: R. J. Finnan, Pricing, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, La. 70130.

Summary: On October 13, 1982, the Commission received notice to cancel Agreement No. 10191 between Lykes and O.N.E. Shipping Ltd. Therefore, the agreement has been terminated effective October 13, 1982, the date the notice was received by the Commission.

By Order of the Federal Maritime Commission.

Dated: October 21, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-29331 Filed 10-25-82; 8:45 am]

BILLING CODE 6730-01-M

Shipping Conditions in the Miami/Venezuela Trade; Time for Filing Response

By Notice published in the **Federal Register** of October 18, 1982 (47 FR 46375), the Commission requested that interested persons submit views, arguments or data on the petition of Coordinated Caribbean Transport, Inc., for investigation of shipping conditions in the Miami/Venezuela trade. Time for comment was set at November 19, 1982.

The Commission is of the opinion that a shorter time for comment should be established. Accordingly, views, arguments or data with respect to the petition shall be submitted on or before November 8, 1982.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-29362 Filed 10-25-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0427]

Announcement of Special Study of Margin Regulation

The staff of the Board of Governors of the Federal Reserve System has undertaken a study of the federal regulation and oversight of margins in financial markets. This review is being conducted with the cooperation of the staffs of the Securities and Exchange Commission and the Commodities Futures Trading Commission.

The need for a reexamination of federal margin authority at this time stems in part from changes in the structure of financial markets and their regulation since 1934 when federal authority for margin regulation in securities markets was first granted, and in part from the establishment and rapid growth of financial futures, options and other derivative markets in recent years. Some of these markets operate under a different regulatory framework than the cash markets on which they are based. The staff of the Board of Governors expects to suggest to the Board any legislative recommendations that seem appropriate in light of the results of the review.

As part of its review, the staff is soliciting views of interested persons on the following questions:

1. Federal regulation of initial margins in securities markets was established to dampen speculative price movements, protect unsophisticated investors and reduce the volume of credit diverted to speculative uses. Maintenance margins established by securities and futures exchanges are presently aimed primarily at preventing losses to market participants caused by the defaults of other participants. These margins are subject to federal oversight in securities markets but not on futures exchanges.

(a) Has the existing system of margin regulation been effective in achieving its goals?

(b) What impact has the growth of new markets subject to different regulations had on this effectiveness?

2. In light of current market structure, practices and regulatory controls, what should be the present goals of federal margin regulation of financial markts, including futures and options markets, as well as underlying cash markets?

3. What should be the scope of federal margin regulations?

(a) Which markets or instruments should be covered? Should some or all aspects of the federal regulation of margins in securities markets be extended to commodity futures or other financial markets? What problems might be encountered in such an extension? What would be the effect of, or rationale for, continuing to afford dissimilar regulatory treatment to markets trading instruments that perform similar functions?

(b) Should margin regulation or oversight extend to both initial and maintenance margins?

(c) To what extent should regulation or oversight extend to transactions among market makers and other professionals as well as to transactions involving public customers? Is regulation of clearinghouse margin practices necessary?

4. What are the appropriate levels of initial and maintenance margins in various markets? Are there special problems or considerations involved in defining or allowing for hedges or other special situations in the various markets?

5. What, if any, assets in addition to cash should be used for margin?

6. How should margin regulations be administered? Should regulators set initial or maintenance margin levels themselves, or simply have veto authority over margin rules set by exchanges and other groups of market participants? Which agency or agencies should have authority, and if more than one agency is to be involved, how can effective coordination be ensured?

Interested persons are inivited to submit their views on any of the above questions or on other related issues to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, not later than December 20, 1982. All such submissions should refer to Docket No. R-0427. For further information regarding this matter, contact Frederick M. Struble, Assistant Director, Division of Research & Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-3794.

Board of Governors of the Federal Reserve System, October 21, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-29356 Filed 10-25-82; 8:45 am]

BILLING CODE 6210-01-M

Consumer Advisory Council; Meeting of Consumer Advisory Council; Changes in Location and Times

On September 30, 1982 (47 FR 43187), the Board announced a meeting of its Consumer Advisory Council on October 27 and 28. Several changes have been made in the location and times of the meeting.

The meeting, which will be open to public observation, will take place in the Board Room, located on the second floor of the Board building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. The October 27 session is expected to begin at 1:00 p.m. and to continue until 5:00 p.m. The October 28 session is expected to begin at 9:00 a.m. and to conclude at 1:00 p.m., with no break for lunch.

Information about this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, October 20, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-29357 Filed 10-25-82; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of August 24, 1982

In accordance with Part 217 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on August 24, 1982.[1]

The information reviewed at this meeting suggests only a little further advance in real GNP in the current quarter, following a relatively small increase in the second quarter, while prices on the average are continuing to rise more slowly than in 1981. In July the nominal value of retail sales rose somewhat from a sharply reduced June level; housing starts increased substantially, though from a relatively low rate; and industrial production and nonfarm payroll employment were essentially unchanged. The unemployment rate rose 0.3 percentage point to 9.8 percent. Over the first seven months of the year the advance in the index of average hourly earnings was considerably less rapid than during 1981.

The weighted average value of the dollar against major foreign currencies, while flunctuating over a wide range, has changed little on balance since late June despite a sharp decline in U.S. interest rates relative to foreign rates. Demand for dollars appeared to reflect concern about economic and financial difficulties abroad. The U.S. foreign trade deficit in the second quarter was somewhat below the first-quarter deficit, with petroleum imports down substantially.

M1 declined slightly in June and July, while growth of M2 moderated somewhat from its average pace earlier in the year. Business demands for credit, especially short-term credit, remained generally strong. Market interest rates have declined sharply since around midyear, reflecting a shift in market sentiment about the outlook for interest rates against the background of strains in financial markets, relatively weak economic indicators, and legislative action on the federal budget. The Federal Reserve discount rate was reduced in three steps from 12 percent to 10½ percent during the period.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation, promote a resumption of growth in output on a sustainable basis, and contribute to a sustainable pattern of international transactions. At its meeting in early February, the Committee had agreed that its objectives would be furthered by growth of M1, M2, and M3 from the fourth quarter of 1981 to the fourth quarter of 1982 within ranges of 2½ to 5½ percent, 6 to 9 percent, and 6½ to 9½ percent respectively. The associated range for bank credit was 6 to 9 percent. The Committee began a review of these ranges at its meeting on June 30-July 1, and at a meeting on July 15, it reaffirmed the targets for the year set in February. At the same time the Committee agreed that growth in the monetary and credit aggregates around the top of the indicated ranges would be acceptable in the light of the relatively low base period for the M1 target and other factors, and that it would tolerate for some period of time growth somewhat above the target range should unusual precautionary demands for money and liquidity be evident in the light of current economic uncertainties. The Committee also indicated that it was tentatively planning to continue the current ranges for 1983 but that it would review that decision carefully in the light of developments over the remainder of 1982.

In the short run, the Committee continues to seek behavior of reserve aggregates consistent with growth of M1 and M2 from June to September at annual rates of about 5 percent and about 9 percent respectively. Somewhat more rapid growth would be acceptable depending on evience that economic and financial uncertainties are leading to exceptional liquidity demands and changes in financial asset holdings. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that pursuit of the monetary objectives and related reserve paths during the period before the next meeting is likely to be associated with a federal funds rate

[1] The Record of Policy Actions of the Committee for the meeting of August 24, 1982, is filed as part of the original document. Copies are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

persistently outside a range of 7 to 11 percent.

By order of the Federal Open Market Committee, October 19, 1982.

Murray Altmann,

Secretary.

[FR Doc. 82-29295 Filed 10-25-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82D-0304]

Heptachlor and Heptachlor Epoxide in Milk; Revision of Regulatory Level

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the regulatory level for heptachlor and heptachlor epoxide in milk has been lowered from 0.3 part per million (ppm) on a fat basis to 0.1 ppm on a fat basis. This action is based on the Environmental Protection Agency's (EPA) recommendation and findings that the 0.1 ppm level provides adequate protection of public health and will not have a substantial impact on the dairy industry. FDA Compliance Policy Guide 7120.23 has been revised to reflect this change.

EFFECTIVE DATE: October 26, 1982.

ADDRESS: Written comments, data, and information on the revised regulatory level and requests for single copies of FDA Compliance Policy Guide 7120.23 should be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond W. Gill, Bureau of Foods (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: FDA is responsible for enforcing tolerances established by EPA for pesticide residues in raw agricultural commodities. EPA previously established a zero tolerance for residues of heptachlor and heptachlor epoxide in milk (40 CFR 180.104). However, enforcement of a "zero" tolerance is not always practicable. For this reason, a finite number is generally set as a practicable regulatory limit for enforcement purposes. In the mid-sixties, the regulatory level for heptachlor and heptachlor epoxide residues in milk was established at 0.3 ppm (fat basis).

After the discovery earlier this year of widespread contamination with heptachlor and heptachlor epoxide of milk produced in Hawaii, FDA requested EPA to evaluate the current 0.3 ppm regulatory level. EPA closely monitored the levels of heptachlor and heptachlor epoxide residues in Hawaiian milk, assessed the duration of consumer exposure to those residues, and evaluated the economic impact of reducing the levels. Based on their findings, reported in "Heptachlor Action Level Assessment," EPA subsequently recommended that the regulatory level for heptachlor and heptchlor epoxide residues in milk should be lowered from 0.3 ppm (fat basis) to 0.1 ppm (fat basis). FDA concurs with this recommendation and has revised FDA Compliance Policy Guide 7120.23, "Raw Agricultural Commodities and Processed Foods Intended for Human Consumption—Adulteration Involving Pesticide Residues," to reflect this change.

A copy of EPA's "Heptachlor Action Level Assessment" and revised FDA Compliance Policy Guide 7120.23 are on file in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday. Requests for single copies of FDA Compliance Policy Guide 7120.23 should refer to the docket number found in brackets in the heading of this document and should be submitted to the Dockets Management Branch.

Interested persons may submit to the Dockets Management Branch written comments, data, and information regarding this revised level. 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.

Dated: October 20, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-29297 Filed 10-25-82; 8:45 am]

BILLING CODE 4160-01-M

J. B. Hunt Co.; Breeder Mix-42 HB; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) providing for use of Breeder Mix-42 HB (hygromycin B and bacitracin MD) for chickens for control of certain worm infestations and for growth promotion and feed efficiency. The firm requested withdrawal of approval.

EFFECTIVE DATE: November 5, 1982.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV-218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: J. B. Hunt Co., P.O. Box 200, Lowell, AK 72745, is sponsor of NADA 92-092 which provides for use of Breeder Mix 42-HB containing 1.6 grams per pound hygromycin B and 1.2 grams per pound bacitracin MD for making a complete breeder chicken feed containing 12 grams per ton hygromycin B and 9 grams per ton bacitracin MD for control of ascarid, cecal worm, and capillary worm infections, and for growth promotion and feed efficiency.

The product was originally approved March 20, 1973. Approval of this NADA had not been codified in the Code of Federal Regulations. The firm, in its submission of April 19, 1982, to FDA's Bureau of Veterinary Medicine, requested withdrawal of approval of the NADA without prejudice and waived opportunity for a hearing (see 21 CFR 514.115(d)) because the product is not being manufactured.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360(b)(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 92-092 and all supplements for J. B. Hunt Co.'s Breeder Mix-42 HB containing hygromycin B and bacitracin MD is hereby withdrawn, effective November 5, 1981.

Dated: October 19, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-29296 Filed 10-25-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 10816, et al.]

Montana; Termination of Classifications for Multiple Use Management; Correction

October 13, 1982.

Paragraph 1 in **Federal Register** Document 82-26212, dated September 14, 1982, appearing on page 42033 in the issue of Thursday, September 23, 1982, should be corrected as follows: the acreage under M 12080 of "17,682.99 acres" should read "70,047.21 acres in Dawson and Wibaux Counties;" and the total acreage of "25,301 acres" described in the last line of Paragraph 1 should read "77,665 acres."

Kannon Richards,

Acting State Director.

[FR Doc. 82-29330 Filed 10-25-82; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Proposed Land Exchange Between the Bureau of Land Management and Mr. Gordon Macbeth

October 15, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action on proposed land exchange.

SUMMARY: This notice is to advise the public that the Rio Puerco Resource Area of the Bureau of Land Management (BLM) and Mr. Gordon Macbeth are proposing a land exchange.

SUPPLEMENTARY INFORMATION: The BLM has determined that 5364.59 acres of public land described as the Selected Lands are suitable to exchange for 7178.75 acres of private land identified as the Offered Lands under authority of Section 206 of the Federal Land Policy Management Act of 1976 (90 Stat. 2743). The purpose of the exchange is to acquire the private lands to consolidate federal holdings and more efficiently manage the pronghorn antelope, elk, and male deer habitat in the San Antonio—Pot Mountain Habitat Management Area. The exchange will also enable the BLM to more efficiently manage the livestock grazing management program in the Quinlan and Middlemist Allotment Management Plan Area.

The 5364.59 acres of public land will be conveyed subject to the following terms and conditions:

1. Two prior existing electric transmission line rights-of-way granted to Public Service Company of New Mexico, its successors and assigns, by right-of-way grants NM 0146924 and NM 036390 under authority of the Act of March 4, 1911 (43 U.S.C. 961).

2. All mineral deposits shall be reserved to the United States along with the rights to prospect for, mine and remove such deposits under applicable law.

3. All geothermal steam and associated geothermal resources shall be reserved to the United States along with the right to prospect for, mine and remove such deposits subject to the provisions and limitations of the Act of December 24, 1970 (84 Stat. 1566).

4. The right to construct ditches and canals across said lands under authority of the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

5. An exclusive easement that provides the BLM with the right to conduct historical, scientific and archaeological investigations, together with the right of ingress and egress for a period of ten years.

6. Portions of Twps. 11N, R. 1E., NMPM, Section 6 and Twps. 11N., R. 1W., NMPM, Sections: 4, 10, 12, 14, 22, 24, 26 amounting to approximately 465 acres lie within the floodplain identified on the Flood Hazard Boundary Map for Bernalillo County, New Mexico. Section 3(d) of Executive Order 11988, dated May 24, 1977, restricts the patentee(s) and successor(s) from seeking compensation from the United States or its agents in the event the existing or future facilities within this specific area are damaged from floods.

7. Mr. Ben Benavidez, holder of Grazing Lease 0809, shall have the right to continue to graze livestock on the lands included in the grazing lease until June 16, 1984.

In accordance with 43 CFR 2201.1(b), this notice shall segregate the public lands identified herein from further appropriations under all the public land laws, including the mining laws. This segregation shall teminate upon issuance of patent or 2 years from the date of this publication, whichever occurs first.

Selected Lands

	Acres
T. 11 N., R. 1 E., NMPM:	
Sec. 8, lots 1-4	136.91
Sec. 6, lots 1-7, S½NE¼, SE¼NW¼, E½SW¼, SE¼	619.85
Sec. 18, lots 1-4, NE¼, E½W½, SE¼	621.92
Sec. 30, lots 1-4	178.85
T. 11 N., R. 1 W., NMPM:	
Sec. 4, lots 1-5, SE¼NE¼, E½SE¼	332.14
Sec. 10, all	640.00
Sec. 12, all	640.00
Sec. 14, all	640.00
Sec. 22, E½NE¼, SW¼NE¼, SE¼	280.00
Sec. 24, all	640.00
Sec. 26, lots 1-4, N½N½	180.44
Sec. 30, lots 1-6, E½SW¼, SE¼	454.88
Total	5,364.59

Offered Lands

	Acres
T. 28 N., R. 11 E., NMPM:	
Sec. 7, lots, 1-4, E½, E½W½	672.88
T. 29 N., R. 10 E., NMPM:	
Sec. 1, lots 1-4, S½N½, N½S½	481.84
Sec. 6, split diagonally from NE corner to SW corner and includes land from SE corner to diagonal line	319.14
Sec. 8, E½	320.00
Sec. 9, S½S½	160.00
Sec. 17, NE¼NW¼, W½NW¼	120.00
Sec. 22, N½NE¼, NW¼	240.00
Sec. 23, N½N½	160.00
Sec. 25, NE¼, SW¼	320.00
Sec. 26, SE¼NE¼, N½SE¼	120.00
Sec. 35, all	640.00
T. 29 N., R. 11 E., NMPM:	
Sec. 30, lot 1, NE¼NW¼	80.91
Sec. 31, lots 1, 2, NE¼, E½NW¼	321.08
Sec. 33, N½	320.00
T. 30 N., R. 10 E., NMPM:	
Sec. 24, S½, S½N½	480.00
Sec. 25, N½	320.00
Sec. 26, S½NE¼	80.00
T. 30 N., R. 11 E., NMPM:	
Sec. 19, lots 3, 4, E½SW¼	158.09
T. 31 N., R. 11 E., NMPM:	
Sec. 21, W½E½, W½	480.00
Sec. 29, all	640.00
Sec. 30, lots 1-4, E½, E½W½	632.24
Sec. 31, lot 1, N½NE¼, NE¼NW¼	157.57
Total	7,178.75

Detailed information concerning the exhange, including the environmental assessment, is available at the Albuquerque District Office, 3550 Pan American Freeway, NE, Albuquerque, New Mexico 87107.

For a period of 45 days after publication of this notice, interested parties may submit comments to the District Manager, Albuquerque District Office at the above address. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action by the State Director, this action will become the final determination.

Dated: October 18, 1982.

L. Paul Applegate,

District Manager.

[FR Doc. 82-29329 Filed 10-25-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 15, 1982. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243.

Written comments should be submitted by November 10, 1982.

Bruce MacDougal,

Acting Chief of Registration, National Register.

CALIFORNIA

Orange County

Santa Ana, *Wright, George L., House,* 831 N. Minter St.

San Luis Obispo County

San Luis Obispo, *Angel, Myron, House,* 714 Buchon St.

COLORADO

El Paso County

Manitou Springs, *Crystal Valley Cemetery (Manitou Springs MRA),* Plainview Ave.

Manitou Springs, *Keithley Log Cabin Development District (Manitou Springs MRA),* Roughly bounded by Santa Fe Pl., Crystal Park Rd., and Spur Rd.

Manitou Springs, *Manitou Springs Historic District (Manitou Springs MRA),* Roughly bounded by El Paso Blvd., Ruxton Ave., US 24, and Iron Mt. Ave.

DELAWARE

New Castle County

Wilmington, *Grace United Methodist Church,* 9th and West Sts.

Wilmington, *Postles House,* 1007 N. Broom St.

Wilmington, *St. Hedwig's Roman Catholic Church,* Linden and S. Harrison Sts.

ILLINOIS

Cook County

Chicago, *Fort Dearborn Hotel,* 401 S. LaSalle St.

Chicago, *Schulze Baking Company Plant,* 40 E. Garfield Blvd.

Chicago, *St. Luke's Hospital Complex,* 1435 S. Michigan Ave., 1400 Block S. Indiana Ave.

Jo Daviess County

East Dubuque, *East Dubuque School,* Montgomery Ave.

Kane County

St. Charles, *Hunt House,* 304 Cedar Ave.

McHenry County

Woodstock, *Woodstock Square Historic District,* Roughly bounded by Calhoun, Throop, Cass, Main, C and NW RR Tracks, and Jefferson Sts.

McLean County

Bloomington, *Davis, David III & IV, House,* 1005 E. Jefferson

Peoria County

Peoria, *North Side Historic District,* Roughly bounded by Perry, Caroline, Madison and Fayette Sts.

INDIANA

Delaware County

Muncie vicinity, *Jump, Dr. Samuel Vaughn, House,* SE of Muncie on IN 2

KENTUCKY

Carroll County

Carrollton, *Carrollton Historic District,* Roughly bounded by Main, Polk, 2nd, 7th, and both sides of Highland Ave. to 11th St.

MASSACHUSETTS

Essex County

Beverly, *United Shoe Machinery Corporation Clubhouse,* 134 McKay St.

Salem, *Choate, Rufus, House,* 14 Lynde St.

Hampden County

Longmeadow, *Longmeadow Historic District (The Green),* Roughly Longmeadow St. from Birdie Rd. to Wheelmeadow Brook

Middlesex County

Malden, *Waitt Brick Block,* 422–424 Main St.

Weston, *Boston Post Road Historic District,* Both sides of the Boston Post Rd. from Plain Rd. to Stony Brook

MICHIGAN

Bay County

Bay City, *Clements, James, Airport Administration Building,* 614 S. River Dr.

Genesee County

Atlas, *Atlas Grange Hall (Genesee County MRA),* 8530 Perry Rd.

Byron, *Bird/Boyd Farm House (Genesee County MRA),* 14215 Bird Rd.

Byron, *Middlesworth, Isaac, R., Farm House (Genesee County MRA),* 11355 Rolston Rd.

Clio, *Clio Depot (Genesee County MRA),* 300–308 W. Vienna Rd.

Clio, *House at 4344 Frances Road (Genesee County MRA),* 4344 Frances Rd.

Clio, *Mauk & Hammer/Houghton Elevator (Genesee County MRA),* 315 W. Vienna St.

Clio, *Tinker, Harry C., House (Genesee County MRA),* 12030 Lewis Rd.

Clio, *West Vienna United Methodist Church (Genesee County MRA),* 5461 Wilson Rd.

Davison, *Barn at 4277 Irish Road (Genesee County MRA),* 4277 Irish Rd.

Davison, *House at 1339 Cummings Road (Genesee County MRA),* 1339 Cummings Rd.

Davison, *McAra, John, House (Genesee County MRA),* 2157 Irish Rd.

Davison, *Van Buskirk, John, Farm House (Genesee County MRA),* 7348 Coldwater Rd.

Fenton, *Bangs, Benjamin, House (Genesee County MRA),* 819 S. Leroy St.

Fenton, *Church, Volney,/Carlos B. Shotwell House (Genesee County MRA),* 812 S. Adelaide St.

Fenton, *Colwell, David B., House (Genesee County MRA),* 901 S. Leroy St.

Fenton, *Dibbleville-Fentonville Historic District (Genesee County MRA),* Roughly bounded by Shiawassee, Riggs, Holly and George Sts.

Fenton, *Fenton Railroad Depot (Genesee County MRA),* 207 Silver Lake Rd.

Fenton, *Fenton Seminary (Genesee County MRA),* 309 High St.

Fenton, *Hinckley, Colonel J., House (Genesee County MRA),* 210 High St.

Fenton, *Jennings, H. N., House (Genesee County MRA),* 800 S. East St.

Fenton, *Riggs, Frederick, House (Genesee County MRA),* 617 S. Oak St.

Fenton, *Trump, Edwin, House (Genesee County MRA),* 801 S. East St.

Flint, *Aitken, Robert Farm House (Genesee County MRA),* 1110 Linden Rd.

Flint, *House at 4305 South Linden Road (Genesee County MRA),* 4305 South Linden Rd.

Flint, *House at 6112 Carpenter Road (Genesee County MRA),* 6112 Carpenter Rd.

Flint, *Thayer, H. Elmer, House (Genesee County MRA),* G–3202 Court St.

Flushing, *House at 10410 Stanley Road (Genesee County MRA),* 10410 Stanley Rd.

Flushing, *House at 5556 Flushing Road (Genesee County MRA),* 5556 Flushing Rd.

Flushing, *Main Street Historic District (Genesee County MRA),* Main St. from Maple to 628 Main St.

Flushing, *O'Sullivan, Daniel, House/Halfway House (Genesee County MRA),* 5035 Flushing Rd.

Gaines, *Genesee Avenue-Walker Street Historic District (Genesee County MRA),* Roughly bounded by Washington, Elm, Lord Sts, and RR Tracks

Goodrich, *Green, Alanson, Farm House (Genesee County MRA),* 11226 Green Rd.

Goodrich, *Hegel Road Historic District (Genesee County MRA),* Hegel Rd. between Seneca and the Goodrich Millpond

Grand Blanc, *First Baptist Church of Grand Blanc (Genesee County MRA),* 6101 S. Saginaw St.

Linden, *Bridge Street—Broad Street Historic District (Genesee County MRA),* 3 Central blocks of Broad St., 2 blocks Bridge St.

Linden, *House at 7066 Lobdell Road (Genesee County MRA),* 7066 Lobdell Rd.

Linden, *McCaslin, William Henry and Lucinda, Farm House (Genesee County MRA),* 15237 McCaslin Lake Rd.

Linden, *Murray, James H., House (Genesee County MRA),* 7232 Silver Lake Rd.

Millington, *McClew, Alexander, Farm House (Genesee County MRA),* 7115 Farrand Rd.

Ortonville, *Carmer, William, House (Genesee County MRA),* 10448 Washburn Rd.

Otisville, *Parker and Dunstan Hardware/Dr. E. D. Lewis Building (Genesee County MRA),* 129–133 W. Main St.

Otisville, *Swayze, E. S.,/Otisville Mason Lodge #401 (Genesee County MRA),* 106 Main St.

Swartz Creek, *Bloss, Frank D., and Sons Farm House (Genesee County MRA),* 8380 Reid Rd.

Swartz Creek, *Buck, Jesse H., Farm House (Genesee County MRA),* 6095 Baldwin Rd.

Swartz Creek, *Gilbert, Horace/Morgan and Enos Miller House (Genesee County MRA),* 5023 Holland Dr.

Gratiot County

Elwell, *MacLachlan, Dr. Charles H., Sanitarium and House,* 6482 Pingree Rd.

Huron County

Harbor Beach, *Grice, James and Jane, House,* 865 N. Huron Ave.

Kent County

Grand Rapids, *Aldrich Building*, 98 Monroe Center, NW
Grand Rapids, *Fine Arts Building*, 220 Lyon St., NW
Grand Rapids, *First (Park) Congregational Church*, 10 E. Park Pl., NE

Shiawassee County

Corunna, *Shiawassee County Courthouse*, Shiawassee St.

Wayne County

Detroit, *Palms, Francis, Building & State Theater*, 2111 Woodward Ave.
Detroit, *Parker, Thomas A., House*, 975 E. Jefferson Ave.
Detroit, *Vanity Ballroom Building*, 1024 Newport St.

MISSISSIPPI

Adams County

Natchez, *Clifton Heights Historic District*, Roughly bounded by Ridge and Mulberry Alley, Natchez Bluff, Park Ave., and Maple St.

Hancock County

Pearlington vicinity, *Claiborne Site (22 Ha 501)*

Washington County

Glen Allan vicinity, *Linden*, N of Glen Allan jct of SR 97 and 69

NEBRASKA

Colfax County

Schuyler vicinity, *Our Lady of Pepetual Help Catholic Church & Cemetery*,

Douglas County

Omaha, *Georgia Row House*, 1040–1044 S. 29th St.

NEW MEXICO

Sandoval County

Corrales, *Casa San Ysidro*, Church St.

NEW YORK

Dutchess County

Beacon/Fishkill, *Mount Beacon Incline Railway and Power House (Hudson Highlands MRA)*, Howland Ave. and Wolcott St.
Fishkill, *Bannerman's Island Arsenal (Hudson Highlands MRA)*, Pollepel Island, Off NY 9–D
Fishkill, *Dutchess Manor (Hudson Highlands MRA)*, 400 Breakneck Rd.
Poughkeepsie, *Academy Street Historic District (Poughkeepsie MRA)*, Academy St. Betweet Livingston and Montgomery Sts.
Poughkeepsie, *Adriance Memorial Library (Poughkeepsie MRA)*, 93 Market St.
Poughkeepsie, *Amrita Club (Poughkeepsie MRA)*, 170 Church St.
Poughkeepsie, *Balding Avenue Historic District (Poughkeepsie MRA)*, Balding Ave. between Mansion and Marshall Sts.
Poughkeepsie, *Barrett House (Poughkeepsie MRA)*, 55 Noxon St.
Poughkeepsie, *Booth, O. H., Hose Company (Poughkeepsie MRA)*, 532 Main St.
Poughkeepsie, *Boughton/Haight House (Poughkeepsie MRA)*, 73–75 S. Hamilton St.
Poughkeepsie, *Cedarcliff Gatehouse (Poughkeepsie MRA)*, 66 Ferris Lane
Poughkeepsie, *Church Street Row (Poughkeepsie MRA)*, Church St. from Academy to Hamilton St.
Poughkeepsie, *Clark House (Poughkeepsie MRA)*, 85 Cedar Ave.
Poughkeepsie, *Clonton House (Poughkeepsie MRA)*, 547 Main St.
Poughkeepsie, *Dixon House (Poughkeepsie MRA)*, 49 N. Clinton St.
Poughkeepsie, *Dutchess County Court House (Poughkeepsie MRA)*, 10 Market St.
Poughkeepsie, *Dwight-Hooker Avenue Historic District (Poughkeepsie MRA)*, Dwight St. from Hamilton to Hooker, and 79–85 Hooker Ave.
Poughkeepsie, *Eastman Terrace (Poughkeepsie MRA)*, 1–10 Eastman Terr.
Poughkeepsie, *Ethol House (Poughkeepsie MRA)*, 171 Hooker Ave.
Poughkeepsie, *Farmer's and Manufacturer's Bank (Poughkeepsie MRA)*, 43 Market St.
Poughkeepsie, *First Baptist Church (Poughkeepsie MRA)*, 260 Mill St.
Poughkeepsie, *First Presbyterian Church (Poughkeepsie MRA)*, 25 S. Hamilton St.
Poughkeepsie, *Freer House (Poughkeepsie MRA)*, 70 Wilbur Blvd.
Poughkeepsie, *Glebe House (Poughkeepsie MRA)*, 635 Main St.
Poughkeepsie, *Gregory House (Poughkeepsie MRA)*, 140 S. Cherry St.
Poughkeepsie, *Grey Hook (Poughkeepsie MRA)*, 5 Ferris Lane
Poughkeepsie, *Guilford Dudley Memorial (Poughkeepsie MRA)*, College Hill Park
Poughkeepsie, *Harlow Row (Poughkeepsie MRA)*, 100–106 Market St.
Poughkeepsie, *Hasbrouck House (Poughkeepsie MRA)*, 75–77 Market St.
Poughkeepsie, *Hershkind House (Poughkeepsie MRA)*, 30 Hooker AVE.
Poughkeepsie, *Lady Washington Hose Company (Poughkeepsie MRA)*, 20 Academy St.
Poughkeepsie, *Luckey, Platt & Company Department Store (Poughkeepsie MRA)*, 332–346 Main Mall
Poughkeepsie, *Mader House (Poughkeepsie MRA)*, 101 Corlies Ave.
Poughkeepsie, *Main Mall Row (Poughkeepsie MRA)*, 315 Main Mall to 11 Garden St.
Poughkeepsie, *Market Street Row (Poughkeepsie MRA)*, 88–94 Market St.
Poughkeepsie, *Moore House (Poughkeepsie MRA)*, 37 Adriance Ave
Poughkeepsie, *Mulrein House (Poughkeepsie MRA)*, 64 Montgomery St.
Poughkeepsie, *New York State Armory (Poughkeepsie MRA)*, 61–65 Market St.
Poughkeepsie, *Niagara Engine House (Poughkeepsie MRA)*, 8 N. Hamilton St.
Poughkeepsie, *Pelton Mill (Poughkeepsie MRA)*,110 Mill St.
Poughkeepsie, *Phillips House (Poughkeepsie MRA)*, 18 Barclay St.
Poughkeepsie, *Post-Williams House (Poughkeepsie MRA)*, 44 S. Clinton St.
Poughkeepsie, *Poughkeepsie Trust Company (Poughkeepsie MRA)*, 236 Main St.
Poughkeepsie, *Poughkeepsie Underwear Factory (Poughkeepsie MRA)*, 6–1 N. Cherry St.
Poughkeepsie, *Reynolds House (Poughkeepsie MRA)*, 107 S. Hamilton St.
Poughkeepsie, *Rombout House (Poughkeepsie MRA)*, New Hackensack Rd.
Poughkeepsie, *Sague House (Poughkeepsie MRA)*, 167 Hooker Ave.
Poughkeepsie, *South Hamilton Street Row (Poughkeepsie MRA)*, 81–87 S. Hamilton St.
Poughkeepsie, *St. Paul's Epsicopal Church (Poughkeepsie MRA)*, 161 Mansion St.
Poughkeepsie, *Thompson House (Poughkeepsie MRA)*, 100 S. Randolph Ave.
Poughkeepsie, *Travis House (Poughkeepsie MRA)*, 131 Cannon St.
Poughkeepsie, *Trinity Methodist Episcopal Church and Rectory (Poughkeepsie MRA)*, 1–3 Hooker Ave.
Poughkeepsie, *Upper-Mill Street Historic District (Poughkeepsie MRA)*, Roughly Mill St. from Center Plaza to Catherine St.
Poughkeepsie, *Young Men's Christian Association (Poughkeepsie MRA)*, 58 Market St.

Orange County

Cornwall, *Deer Hill (Hudson Highlands MRA)*, 58 Deerhill Rd.
Cornwall, *Gatehouse on Deerhill Road (Hudson Highlands MRA)*, Deerhill Rd.
Cornwall, *House at 335 Mountain Road (Hudson Highlands MRA)*, 335 Mountain Rd.
Cornwall, *LeDoux/Healey House (Hudson Highlands MRA)*, 60 Deerhill Rd.
Cornwall, *River View House (Hudson Highlands MRA)*, 146 Bayview Ave.
Cornwall-on-Hudson, *Barr, Amelia, House (Hudson Highlands MRA)*, Mountian Rd.
Cornwall-on-Hudson, *Camp Olmsted (Hudson Highlands MRA)*, 114 Bayview Ave.
Fort Montgomery, *St. Mark's Episcopal Church (Hudson Highlands MRA)*, Canterbury Rd. and NY 9–W
Highland Falls, *Church of the holy Innocents and Rectory (Hudson Highlands MRA)*, 112 Main St.
Highland Falls, *First Presbyterian Church of Highland Falls (Hudson Highlands MRA)*, 140 Main St.
Highland Falls, *Highland Falls Railroad Depot (Hudson Highlands MRA)*, Dock Rd.
Highland Falls, *Highland Falls Village Hall (Hudson Highlands MRA)*, Main St.
Highland Falls, *House at 116 Main Street (Hudson Highlands MRA)*, 116 Main St.
Highland Falls, *House at 37 Center Street (Hudson Highlands MRA)*, 37 Center St.
Highland Falls, *Parry House (Hudson Highlands MRA)*, Michel Rd.
Highland Falls, *Pine Terrace (Hudson Highlands MRA)*, Main St.
Highland Falls, *Squirrels, The (Hudson Highlands MRA)*, 225 Main St.
Highland Falls, *Stonihurst (Hudson Highlands MRA)*, NY 218
Highland Falls, *Webb Lane House (Hudson Highlands MRA)*, Webb Lane
Highland, *Cragston Dependencies (Hudson Highlands MRA)*, NY 218
Highlands, *Storm King Highway (Hudson Highlands MRA)*, NY 218

Orange/Rockland Counties

Highland/Stony Point, *Bear Mountain State Park Historic District (Hudson Highlands MRA)*, Bear Mountain State Park, US 6

Putnam County

Cold Spring, *Cold Spring Historic District (Hudson Highlands MRA)*, Roughly Main, Fair, Chestnut Sts., and Paulding Ave.
Cold Spring, *Fair Lawn (Hudson Highlands MRA)*, NY 9–D
Cold Spring, *Plumbush (Hudson Highlands MRA)*, NY 9–D
Garrison, *Garrison Landing Historic District (Hudson Highlands MRA)*, Bounded by Hudson River and NY Central RR Tracks
Garrison, *Garrison Union Free School (Hudson Highlands MRA)*, NY 9–D
Garrison, *Hurst-Pierrepont Estate (Hudson Highlands MRA)*, NY 9–D
Garrison, *Moore House (Hudson Highlands MRA)*, Nelson La.
Garrison, *Rock Lawn and Carriage House (Hudson Highlands MRA)*, NY 9–D
Garrison, *Walker House (Hudson Highlands MRA)*, Cat Rock Rd.
Garrison, *Wilson House (Hudson Highlands MRA)*, Lower Station Rd.
Garrison, *Woodlawn (Malcom Gordon School) (Hudson Highlands MRA)*, NY 9–D
Nelsonville, *Champlin, H. D., & Son Horseshoeing and Wagonmaking (Hudson Highlands MRA)*, 286 Main
Nelsonville, *Cold Spring Cemetery Gatehouse (Hudson Highlands MRA)*, Peekskill Rd.
Nelsonville, *Dykman, J. Y., Flour and Feed Store (Hudson Highlands MRA)*, 289 Main St.
Nelsonville, *Dykman, J. Y., Store (Hudson Highlands MRA)*, 225 Main St.
Nelsonville, *First Baptist Church of Cold Spring (Hudson Highland MRA)*, Main St.
Nelsonville, *Fish and Fur Club (Hudson Highlands MRA)*, 258 Main St.
Nelsonville, *House at 249 Main Street (Hudson Highlands MRA)*, 249 Main St.
Nelsonville, *House at 3 Crown Street (Hudson Highlands MRA)*, 3 Crown St.
Nelsonville, *Hustis House (Hudson Highlands MRA)*, 328 Main St.
Philipstown, *Briches, The (Hudson Highlands MRA)*, Cat Rock Rd.
Philipstown, *Dick's Castle (Hudson Highlands MRA)*, NY 9–D
Philipstown, *Eagle's Rest (The Jacob Ruppert Estate) (Hudson Highlands MRA)*, NY 9–D
Philipstown, *Glenfields (Archibald Gracie King House) (Hudson Highlands MRA)*, Old Manitou Rd.
Philipstown, *Mandeville House (Hudson Highlands MRA)*, Lower Station Hill Rd.
Philipstown, *Montrest (Hudson Highlands MRA)*, Late Gate Rd.
Philipstown, *Normandy Grange (Hudson Highlands MRA)*, NY 9–D
Philipstown, *Oulagisket (Sloan Estate) (Hudson Highlands MRA)*, NY 9–D
Philipstown, *Thompson, Walter, House and Carriage House (Hudson Highlands MRA)*, Philipsebrook Rd.
Philipstown, *Wright, Russell, Huse (Dragon Rock) (Hudson Highlands MRA)*, NY 9–D

Rockland County

Stony Point, *Bear Mountain Bridge and Toll House (Hudson Highlands MRA)*, NY 6/202

Westchester County

Cortlandt, *Bear Mountain Bridge Rd. (Hudson Highlands MRA)*, NY 6/202, between Bear Mt. Bridge

NORTH CAROLINA

Cherokee County

Andrews, *Cover, Franklin Pierce, House*, SR 1388

Guilford County

Greensboro, *Latham-Baker House*, 412 Fisher Park Circle

Hertfort County

Ahoskie vicinity, *King-Casper-Ward-Bazemore House*, W of Ahoskie On NC 11

Mecklenburg County

Charlotte, *First Presbyterian Church* 200 W. Trade St.

Polk County

Saluda, *Church of the Transfiguration*, Henderson and Charles Sts.

Rowan County

Rockwell vicinity, *Bernhardt, George Matthias, House*, S of Rockwell on SR 2361
Woodleaf vicinity, *Bost, Henry Connor, House*, E of Woodleaf off US 601

OKLAHOMA

Payne County

Yale vicinity, *Sun Camp (Sun Oil Property TR)*, S of Yale
Yale vicinity, *Sun Oil Property Thematic Resource*, S of Yale

PENNSYLVANIA

Jefferson County

Brookville, *Brookville Presbyterian Church and Manse*, White and Main Sts.

RHODE ISLAND

Providence County

Providence, *Aylesworth Apartments*, 188–194 Broad St.
Providence, *Hay and Owen Buildings*, 101 and 117–135 Dyer St.
Providence, *Rhodes Street Historic District*, Rhodes, Janes, and Alphonso Sts.
Providence, *Wesleyan Avenue Historic District*, Roughly Wesleyan Ave. between Taylor and Broad Sts.
Woonsocket, *1761 Milstone (Woonsocket MRA)*, 640 S. Main St.
Woonsocket, *Arnold, John, House (Woonsocket MRA)*, 99 Providence St.
Woonsocket, *Cato Hill Historic District (Woonsocket MRA)*, Roughly bounded by Arnold, Blackstone, Cherry, and Railroad Sts. (Boundary increase)
Woonsocket, *Gaulin, Alphonse, Jr., House (Woonsocket MRA)*, 311 Elm St.
Woonsocket, *Grove Street Elementary School (Woonsocket MRA)*, 312 Grove St.
Woonsocket, *Hanora Mills (Woonsocket MRA)*, 1 Main St.
Woonsocket, *Jenckes Mansion (Woonsocket MRA)*, 837–839 Social St.
Woonsocket, *Linton Block (Woonsocket MRA)*, 3–5 Monument Sq.
Woonsocket, *Logee House (Woonsocket MRA)*, 225 Logee St.
Woonsocket, *North End Historic District (Woonsocket MRA)*, Roughly bounded by Verry, Highland Winter, and Summer Sts.
Woonsocket, *Pothier House (Woonsocket MRA)*, 172 Pond St.
Woonsocket, *Smithfield Friends Meeting House, Parsonage & Cemetery (Woonsocket MRA)*, 126 Smithfield Rd.
Woonsocket, *South Main Street Historic District (Woonsocket MRA)*, Roughly bounded by Mason, Coe, Andrews Sts., and Bernice Ave.
Woonsocket, *St. Andrews Episcopal Chapel (Woonsocket MRA)*, 576 Fairmount St.
Woonsocket, *St. Ann's Church Complex (Woonsocket MRA)*, Cumberland and Elm Sts. and Gaulin Ave.
Woonsocket, *St. Charles Borromeo Church Complex (Woonsocket MRA)*, N. Main, Daniels and Earle Sts.
Woonsocket, *Wilbur, Frank, House (Woonsocket MRA)*, 1273 Park Ave.
Woonsocket, *Woonsocket Civil War Monument (Woonsocket MRA)*, Monument Sq.
Woonsocket, *Woonsocket District Courthouse (Woonsocket MRA)*, 24 Front St.

[FR Doc. 82–29372 Filed 10–25–82; 8:45 am]
BILLING CODE 4310–70–M

Minerals Management Service

Atlantic Outer Continental Shelf; Availability of Draft Environmental Impact Statement and Location and Dates of Public Hearings Regarding Proposed Oil and Gas Lease Sale No. 78

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service has prepared a draft regional environmental impact statement (EIS) relating to proposed Oil and Gas Lease Sale No. 78. The proposal involves the offering of 5,733 blocks offshore the States of North Carolina, South Carolina, Georgia, and Florida.

Single copies of the draft EIS can be obtained from the Regional Manager, Atlantic Outer Continental Shelf Region, Minerals Management Service, Federal Building, 26 Federal Plaza, Suite 32–120, New York, New York 10278; or 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22108.

Copies of the draft EIS will also be available for review in the following public libraries:

Richmond Public Library, 101 E. Franklin Street, Richmond, Virginia 23219.
Olivia Rainey Public Library, 104 Fayetteville Street, Raleigh, North Carolina 27601.
Dare County Library, Box 966, Manteo, North Carolina 27954.
Chaplin Memorial Library, 14 Avenue, North, Myrtle Beach, South Carolina 29577.
Norfolk Public Library System, 301 S. City Hall Avenue, Norfolk, Virginia 23501.
New Hanover County Library, 409 Market Street, Wilmington, North Carolina 28401.
Charleston County Library, 404 King Street, Charleston, South Carolina 29403.

Richland County Library, 1400 Sumter Street, Columbia, South Carolina 29201.
Atlanta Public Library, 126 Carnegie Way N.W., Atlanta, Georgia 30302.
Savannah Public Library, 2002 Bull Street, Savannah, Georgia 31401.
Jacksonville Public Library System, 122 N. Ocean Street, Jacksonville, Florida 32202.
Brunswick-Glynn County Regional Library, 208 Gloucester Street, Brunswick, Georgia 31520.
Leon County Public Library, 127 N. Monroe Street, Tallahassee, Florida 31401.
Volusia County Public Library, City Island, Daytona Beach, Florida 32014.

In accordance with 43 CFR 3314.1, public hearings on the draft EIS are scheduled in Daytona Beach, Florida at the Holiday Inn Surfside, 2700 North Atlantic Avenue, on December 7, 1982, at 9:00 a.m. to 5:00 p.m., and on the morning of December 8, 1982, if necessary. Hearings will also be held in Wilmington, North Carolina, at the Wilmington Hilton, 301 N. Water Street, on December 9, 1982, at 9:00 a.m. to 5:00 p.m.

The hearings will provide the Secretary of the Interior with additional information from both public and private sectors to help evaluate fully the potential effects of leasing oil and gas tracts in the South Atlantic. In addition, the proceedings will give the Secretary the opportunity to receive further comments and views of concerned Federal, State, and local agencies.

Interested individuals, representatives of organizations, and public officials who wish to testify at the hearings are requested to contact the Regional Manager, Atlantic OCS Region, Minerals Management Service, at the above address by 4:15 p.m., November 19, 1982. Written comments from those unable to attend a hearing also should be addressed to the Regional Manager, Atlantic OCS Region, Minerals Management Service, at the above address. The Minerals Management Service will accept written testimony and comments on the draft EIS until December 13, 1982. Time limitations make it necessary to limit the length of oral presentations to ten (10) minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the hearing officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered as part of the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, others will be given an opportunity to be heard.

After testimony and comments have been received and analyzed, a final EIS will be prepared.

Dated: October 20, 1982

Dave Russell,

Deputy Director, Minerals Management Service.

Approved:

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 82-29371 Filed 10-25-82; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Lands Reclamation Program

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

ACTION: Notice of Availability of Findings of No Significant Impact (FONSI) addressing Environmental Assessments (EA's) for development of thirteen (13) abandoned mine land projects under the State of Ohio Reclamation Plan.

SUMMARY: Eastern Technical Center, OSM, has prepared five (5) FONSI's based on EA's prepared by the Ohio Department of Natural Resources for thirteen (13) reclamation projects indicated below and included in the grant developed under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231–1234.

ADDRESS: Copies of the EA's and FONSI's are available for inspection or may be obtained at the following location between the hours of 8:00 a.m. and 4:30 p.m.: Office of Surface Mining Reclamation and Enforcement, Ohio Field Office, 2242 South Hamilton, Columbus, Ohio 43227, (614) 866-0578.

FOR FURTHER INFORMATION CONTACT: Nina Rose Hatfield, Director, Ohio Field Office (address above).

Reclamation projects included in FONSI's, location and description:

I. Indian Run Project, City of Bellaire, Belmont County (a project to reclaim coal refuse pile and dismantle several wooden, concrete and metal structures associated with an abandoned underground coal mine).

II. Bond Project, Perry County, Fee-German Project, Perry County Mills Project, Coshocton County (three projects to reclaim open voids resulting from underground coal mine subsidence).

III. Youngstown Shaft Project, Mahoning County, Trumbull County Mine Shaft Project, Trumbull County Holland Mine Entries Project, Carroll County (three projects to fill abandoned mine shafts and to reclaim the project area).

IV. Martin-Velleca Project, Tuscarawas County, Jefferson County Road #1, Jefferson County (two projects to reclaim areas of unstable slopes).

V. Willow Creek Road Mine Seep, Meigs County, Warwick Township Road #269, Tuscarawas County, Uhrichsville Mine Seep, City of Uhrichsville, Tuscarawas County.

Bridgeport Mine Drainage, Belmont County (four projects to construct drainage control structures to divert mine drainage away from private and public property).

Dated: October 20, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-29344 Filed 10-25-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier; 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 Team 2, (202) 275-7030.

Volume No. OP2-264

Decided: October 19, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier, (Member Parker not participating.)

MC 682 (Sub-42), filed October 13, 1982. Applicant: BURNHAM VAN SERVICE, INC., 5000 Burnham Blvd., Columbus, GA 31907. Representative: David Earl Tinker, 1000 Connecticut Ave. NW-Suite 1112, Washington, DC 20036-5391, 202-887-5868. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. under continuing contract(s) with State Farm Mutual Automobile Insurance Company, of Bloomington, IL.

MC 72423 (Sub-16), filed October 8, 1982. Applicant: PLATTE VALLEY FREIGHTWAYS, INC., 111 East Chestnut St., Sterling, CO 80751. Representative: Jack B. Wolfe, 601 East 18th Ave. No. 107, Denver, CO 80203, 303-861-8046. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI).

MC 99653 (Sub-22), filed October 12, 1982. Applicant: VICTORY FREIGHT LINES, INC., P.O. Box 763, Pell City, AL 35125. Representative: Jone R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209-4786, 205-942-9116. Transporting *metal and metal products*, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 118612 (Sub-18), filed October 1, 1982. Applicant: COLUMBIA TRUCKING, INC., 700-131 St. Pl., Hammond, IN 46320. Representative: Richard A. Kerwin, 180 North La Salle St., Chicago, IL, 312-332-5106. Transporting *petroleum products and coal products*, between points in Cook County, IL., on the one hand and, on the other, points in KS, CO, NE, KY, TN, AR, and OK.

MC 128302 (Sub-29), filed October 13, 1982. Applicant: THE MANFREDI MOTOR TRANSIT CO., 14841 Sperry Rd., Newbury, OH 44065. Representative: JAMES M. BURTCH, 100 E. Broad St., Columbus, OH 43215, (614) 228-1541. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Revere Sugar Corporation, of Lyndhurst, NJ.

MC 133732 (Sub-1), filed October 5, 1982. Applicant: WADE BROTHERS TRANSFER COMPANY, Route 3, Box 394, Hilliard, FL 32046. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, 904-632-2300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in FL, GA and AL, 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 141872 (Sub-2), filed October 7, 1982. Applicant: MATS, INC., P.O. Box 1615, St. Paul, MN 55111 Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402 612-333-1341. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Hennepin, Ramsey, Wright, Carver, Dakota, Scott, Anoka and Washington Counties, MN, on the one hand, and, on the other, points in MN.

MC 144542 (Sub-4), filed October 7 1982. Applicant: CAR TRANSPORTERS CORPORATION, 2001 West Fourth Plain, Vancouver, WA 98660. Representative: John R. Bagileo, 918 16th St., N.W., Washington, DC 20006, 202-785-3700. Transporting *transportation equipment*, between those points in the U.S. in and west of MN, IA, MO, AR, and LA (including AK but excluding HI).

MC 144672 (Sub-29), filed October 5, 1982. Applicant: VICTORY EXPRESS, INC., P.O. Box 26189, Trotwood, OH 45426. Representative: Richard H. Schaefer, (Same address as applicant), 513-277-8933. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with (a) Nashua Corporation, of Nashua NH, (b) J.M. Huber Corporation, of Edison, NJ, (c) Chippewa Paper Products, Inc., of Hillside, IL, (d) All States Shippers Association Inc., of Chicago, IL., (e) KSH, Inc., of St. Louis MO, (f) Freight Consolidation Services, Inc., of Dayton, OH, (g) The Hooven and Allison Company, of Xenia, OH, (h) Miami Valley Transportation Consultants, Inc., of Dayton, OH, and (i) Dayton Bag and Burlap Company, of Dayton, OH.

MC 145242 (Sub-21), filed October 6, 1982. Applicant: CASE HEAVY HAULING, INC., P.O. Box 237, Warren, OH 44482. Representative: Raul F. Beery, 275 E. State St., Columbus, OH 43215 614-288-8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Bostwick Steel Lath Company, of Niles, OH, and its subsidiary, The Bostwick Steel Framing Co., of Knoxville, TN.

MC 151583(Sub-3), filed October 12, 1982. Applicant: UTF CARRIERS, INC., Benson Rd., Middlebury, CT 06749. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, 413-781-8205. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Hoover Company, of No. Canton, OH.

MC 156313 (Sub-8), filed October 8, 1982. Applicant: FALCON, INC., R. D. #1, Rte. 19, Harmony, PA 16037. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, 412-281-9494. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Roth American, Inc., of Wilkes Barre, PA.

MC 156313 (Sub-11), filed October 8, 1982. Applicant: FALCON, INC., R.D. #1, Rte. 19, Harmony, PA 16037. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, 412-281-9494. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with St. Regis Paper Co., of Dallas, TX.

MC 161863, filed October 13, 1982. Applicant: MERLE STERENBERG, d.b.a. BROOKFIELD FARMS TRUCKING, R.R. No. 2, Morrison, IL 61270. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, 217-544-5468. Transporting *fertilizer and ammonia*, between points in IA, IL and WI.

MC 162613, filed October 1, 1982. Applicant: CERTIFIED SAND & GRAVEL, 230 South Michigan Ave., Coldwater, MI 49036. Representative: John J. Morad, 30600 Telegraph Rd., Suite 3250, Birmingham, MI 48010, 313-644-2833. Transporting (1) *sand*, between points in Branch County, MI and Grant County, IN; and (2) *limestone*, between points in Grant County, IN and Litchfield, MI, under continuing contract(s) under parts (1) and (2) with Michigan South Central Power Plant, of Litchfield, MI.

MC 163462, (Correction) filed October 30, 1982, published in the **Federal Register**, issue of September 14, 1982, and republished, as corrected, this issue. Applicant: KWIKOOL ICE & COLD STORAGE, INC., 955 No. Columbia Blvd., Bldg C, Portland, OR 97217. Representative: Kerry D. Montgomery, 400 Pacific Bldg., Portland, OR 97204, (503) 228-5275. Transporting *Food and related products* between points in OR, on the one hand, and, on the other, points in OR and WA, under continuing contract(s) with (1) Armour Food Company, of Portland, OR, (2) Western Meat Traders, Inc., of Sublimity, OR, (3) Swift & Company, of Chicago, IL, (4) The Rath Packing Company, of Waterloo, IA, (5) Western Excel Distributors, Inc., of Portland, OR.

Note.—The purpose of this republication is to correct the destination points.

MC 163573 (Sub-2), filed October 8, 1982. Applicant: LAND SPAN, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: Paul M. Daniell, 1200 Atlanta Gas Light Tower, 235 Peachtree St., NE., Suite 1200, Atlanta, GA 30303, (404) 522-2322. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 164142, filed October 7, 1982. Applicant: B. P., INC., 1025 S. 25th Ave., Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, 602-264-4891. Transporting *meat and meat byproducts, and commodities* used by packing houses, between points in AZ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164193, filed October 13, 1982. Applicant: H. DAN WRIGHT, 403 Prospect St., Beloit, WI 53511. Representative: H. Dan Wright (same address as applicant), 608-365-1553. Transporting *containers and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Western Container Division, Lakeside Fusee Corporation, of Beloit, WI.

For the following, please direct status inquiries to Team 3, 202-275-5223.

Volume No. OP3-02

Decided: October 18, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 67234 (Sub-59), filed October 4, 1982. Applicant: UNITED VAN LINES, INC., One United Dr., Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 So. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Employee Transfer Corporation, of Chicago, IL.

MC 129135 (Sub-10), filed September 30, 1982. Applicant: KATUIN BROS. INC., 102 Terminal Street, Dubuque, IA 52001. Representative: Carl E. Munson, 469 Fischer Building, P.O. Box 796, Dubuque, IA 52001, (319) 557-1320. Transporting *sand and sand products*, between points in Ogle, La Salle, and St. Clair Counties, IL, Columbia, Eau Claire, and Jackson Counties, WI, Le Sueur County, MN, and Muscatine County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 134035 (Sub-52), filed October 4, 1982. Applicant: DOUGLAS TRUCKING COMPANY, P.O. Box 698, Highway 75 South, Corsicana, TX 75110. Representative: Jack K. Willians (same address as applicant), (214) 872-6441. transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 145925 (Sub-6), filed September 27, 1982. Applicant: TRANS CONTINENTAL LEASING, LTD., 8920 Pershall Rd., Hazelwood, MD 63042. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Lamb-Weston, of Portland, OR.

MC 146585 (Sub-8), filed October 5, 1982. Applicant: DOUBLE DD TRUCK LINE, INC., 8860 S. Lone Elder Rd., P.O. Box 230, Canby, OR 97013. Representative: Jerry R. Woods, P.O. Box 28, Marylhurst, OR 97036, (503) 635-5600. Transporting *general commodities*, between points in the U.S. (except AK and HI), under continuing contract(s) with Fritz Companies, Inc., and its subsidiaries and divisions, Arthur J. Fritz & Co., Fritz Air Freight, Fritz Companies International, Fritz Drawback Division, Fritz Freight Forwarding, Fritz International Insurance Brokers, Fritz Information Services, Fritz Maritime Agencies, Fritz Transportation International, and Stewart Drayage Lines, all of San Francisco, CA.

Note.—The authority granted herein to the extent it authorizes the transportation of classes A and B explosive, shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 147844 (Sub-4), filed October 4, 1982. Applicant: RALPH L. BURRESS, P.O. Box 294, Dale, IN 47523. Representative: Jack Meyer, 111 E. Wisconsin Ave., Suite 1330, Milwaukee, WI 53202, (414) 272-8550. Transporting (1) *plumbing fixtures and fittings*, between points in Sheboygan County, WI, Spartanburg County, SC and Brown County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI) and (2) *internal combustion engines and electrical generators*, between points in Sheboygan County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148105 (Sub-4), filed October 5, 1982. Applicant: OVERLAND EXPRESS, INC., P.O. Box 12322, Houston, TX 77017. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437-1768. Transporting *metal and metal products*, between points in the U.S. (except AK and HI).

MC 148554 (Sub-4), filed October 5, 1982. Applicant: WALD TRANSFER & STORAGE, CO., a Corporation, P.O. Box 344, Houston, TX 77001. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437-1768. Transporting *metals* and *metal articles*, between points in the U.S. (except AK and HI).

MC 151004 (Sub-4), filed October 1, 1982. Applicant: WARNACO TRUCKING CORP., 350 Lafayette Street, Bridgeport, CT 06601. Representative: John F. Ryan, (same address as applicant), (203) 579–8006. Transporting *surgical scissors, drugs and toilet preparations,* between points in Wayne County, NC, and points in Fairfield County, Ct, under continuing contract(s) with Acme United, of Bridgeport, CT.

MC 152144 (Sub-3), filed September 24, 1982. Applicant: COMBINED TRANSPORT, INC., P.O. Box 3667, Central Point, OR 97502. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201, (503) 226–6491. Transporting (1) *lumber and wood products,* (2) *pulp, paper and related products,* (3) *metal products,* and (4) *building and construction materials,* between points in the U.S. (except AK and HI).

MC 152824 (Sub-2), filed October 5, 1982. Applicant: W & S COMPANY, 7804 Idaho Lane, Minneapolis, MN 55445. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *such commodities* as are dealt in or used by home improvement centers and hardware stores, between points in the U.S. (except AK and HI), under continuing contract(s) with Cole Sewell Corp., of St. Paul, MN.

MC 154094 (Sub-2), filed October 5, 1982. Applicant: CONTRACT TRANSPORT, INC., P.O. Box 698, Hartville, OH 44632. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in U.S. in and east of MN, IA, MO, AR, and TX.

MC 155235, filed October 5, 1982. Applicant: DAVIDSON TRUCKING CO., INC., 140 Canal St., Malden, MA 02148. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *metal and metal products,* between points in the U.S., under continuing contract(s) with Bellesteel Industries, Inc., of East Boston, MA.

MC 158865 (Sub-1), filed October 5, 1982. Applicant: PINKERTON'S INC., 100 Church St., New York, NY 10007. Representative: Jerome W. Pope, Suite 5000, One First National Plaza, Chicago, IL 60603, (312) 558–5600. Transporting *commercial papers, documents, written instruments and business records* (except currency and negotiable securities) as are used in the business of banks and banking institutions in interstate commerce, between points in the U.S. (except AK and HI), under continuing contract(s) with banks or banking institutions.

MC 159075 (Sub-2), filed October 7, 1982. Applicant: WILLIAM P. JONES, d.b.a. JONES BROS. TRUCKING, 1895 E. Broadway, P.O. Box 4414, Missoula, MT 59806. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *lumber and wood products,* between points in CA, ID, MT, OR, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161534, filed October 4, 1982. Applicant: NORTHERN TIMER CORPORATION, P.O. Box 595, Haines, AK 99827. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004, (202) 737–1030. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI), under continuing contract(s) with (1) Alaska Constructing & Mining Equip. Inc., d.b.a. The Coal Bunkers and Williams & Associates, of Fairbanks, AK, (2) Knappton Corporation and North Pacific Lumber Company, of Portland, OR, (3) N.C. Machinery and Trucano Construction, of Juneau, AK, (4) Northland Wood Products Inc. and Schnabel Lumber Company, of Haines, AK and (5) OMNI North and Stephans & Sons and Mat-Su/Stephan J.V., of Anchorage, AK.

MC 162204, filed September 22, 1982. Applicant: SOUTHWEST SLEEPER COACHES, INC., 5155 Wichita St., Fort Worth, TX 76119. Representative: Bob Bowland, (same address as applicant), (817) 535–2859. Transporting *passengers and their baggage,* in special and charter operations, beginning and ending at points in Tarrant and Dallas Counties, TX, and extending to points in the U.S.

MC 162375, filed October 7, 1982. Applicant: BLASTING SUPPLIES CO., INC., 11008 Philadelphia Rd., Whitemarsh, MD 21162. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *commercial explosives,* between points in the U.S. (except AK and HI), under continuing contract(s) with Nitrochem Energy Corp. of Allentown, PA. Condition: The authority granted here is limited in point of time to a period of five (5) years from the date of issuance.

MC 162524, filed October 7, 1982. Applicant: PERRY BUS LINE, 1403 Cambridge Rd., P.O. Box 1351, Perry, GA 31059. Representative: Carlene M. Smith (same address as applicant), (912) 987–2117. Transporting *passengers and their baggage,* in special and charter operations, beginning and ending at points in Houston, Macon, Taylor, Crawford, Peach, Dooly, Chatham, Sumter, Crisp, Lee, Dougherty, Monroe, Bibb, Pulaski, Schley, Tift, Colquitt, Lowndes, and Muscogee Counties, GA, and extending to points in the U.S. (except AK and HI).

MC 163685, filed October 4, 1982. Applicant: GLACIER TRANSIT & STORAGE, INC., 128 Appleton, Box 359, Plymouth, WI 53073. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *food and related products,* between points in Sheboygan County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163854, filed September 13, 1982. Applicant: ROBERT BEARD TRUCKING CO., P.O. Box 1045, Munford, TN 38058. Representative: Robert Lewis Beard, (same address as applicant), (901) 837–2016. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 164054, filed September 30, 1982. Applicant: SPACE AGE DELIVERY SERVICE, INC., 3350 E. 69th St., Long Beach, CA 90805. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA, on the one hand, and, on the other, points in AZ.

MC 164064, filed October 1, 1982. Applicant: CHAMBLISS TRANSFER; 104 W 2nd Street, Tipton, IA 52772. Representative: Gerald Chambliss (same address as applicant), (319) 886–2824. Transporting *used motor vehicles,* between points in IA, IL, WI, MN, NE, and MO.

MC 164125, filed October 4, 1982. Applicant: TRAIL MOTOR LINES, INC., P.O. Box 1716, Las Cruces, NM 88004. Representative: William J. Lippman, P.O. Box 6060, Snowmass Village, CO 81615, (303) 923–4565. Transporting (1) *metal products,* (2) *machinery,* (3) *commodities which because of their size or weight require the use of special equipment and* (4) *building materials,* between points in NM and TX, on the one hand, and, on the other, points in AZ, CA, CO, ID, LA, MT, NV, OK, OR, TX, UT, WA and WY.

MC 164154, filed October 7, 1982. Applicant: LAB CORPORATION, 27 Chantilly Ct., Seekonk, MA 02771. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960, (617) 535–5430. Transporting *general commodities* (except classes A and B

explosives, household goods and commodities in bulk), between points in MA, CT, RI, ME, VT and NH.

For the following, please direct status inquiries to Team 4 at 202-275-7669.

Volume No. OP4-005

Decided: October 19, 1982.

By the Commission, Review Board No. 2, Members Carleton and Williams.

MC 109426 (Sub-4), filed October 4, 1982. Applicant: McCOLLISTER'S MOVING & STORAGE, INC., 1800 Route 130 North, P.O. Box 9, Burlington, NJ 08016. Representative: James W. Patterson; 1200 Avenue of the Arts Bldg., Philadelphia, PA 19107, (215) 735-3090. Transporting (1) *household goods,* and (2) *electronic equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with Sperry Univac, of Blue Bell, PA.

MC 111656 (Sub-20), 1982, filed October 5, 1982. Applicant: FRANK LAMBIE, INC., Pier 79 North River, New York, NY 10018. Representative: John L. Alfan, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835-4411. Transporting *paper and paper products,* between points in the U.S., under continuing contract(s) with Simpson Paper Company, of Miquon, PA.

MC 138686 (Sub-16), filed October 5, 1982. Applicant: L. C. W. TRUCKING, INC., P.O. Box 18316, Fort Worth, TX 76118. Representative: Billy R. Reid, 1721 Carl St., Ft. Worth, TX 76103, (817) 332-4718. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 141536 (Sub-5), filed October 5, 1982. Applicant: BILL BLANN, d.b.a. BLANN TRACTOR COMPANY, Route 2, Box 38, Hampton, AR 71744. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201, (501) 375-3022. Transporting *food and related products,* between St. Louis, MO, on the one hand, and, on the other, points in Ouachita County, AR.

MC 148647 (Sub-35), filed October 5, 1982. Applicant: HI CUBE CONTRACT CARRIER CORP., 5501 West 79th St., Burbank, IL 60459. Representative: Arnold L. Burke, 180 N LaSalle St., Rm 3520, Chicago, IL 60601, (312) 332-5106. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Westwood Pharmaceuticals, Inc. of Buffalo, NY.

MC 154667 (Sub-13), filed October 6, 1982. Applicant: B.I. TRANSPORTATION, INC., P.O. Box 691, Burlington, NC 27215. Representative: J. Franklin Fricks, Jr. (same address as applicant), (919) 228-2239). Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 154766 (Sub-3), filed October 5, 1982. Applicant: JOHN A. VERIHA, d.b.a. PAPER RECLAIM, Route 1, Box 271A, Porterfield, WI 54159. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203, (414) 273-7410. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in Menominee County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157556 (Sub-1), filed September 28, 1982. Applicant: EXECUTIVE VAN LINES, INC., 8234 N. MacArthur, Oklahoma City, OK 73132. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, D.C. 20036, (202) 785-0024. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with Executive Transportation Services, Inc., of Oklahoma City, OK.

MC 162727, filed October 4, 1982. Applicant: MECHANICSVILLE BUS LINE, INC., Route 1 Box 648, Mechanicsville, VA 23111. Representative: Paul D. Collins, 7761 Lakeforest Dr., Richmond, VA 23235, (804) 745-0446. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in VA, and extending to points in the U.S. (except AK and HI).

MC 164106, filed October 5, 1982. Applicant: SOUTHEAST CARPET TRANSPORT, INC., 316 Bear Creek Rd., Dalton, GA 30720. Representative: George M. Ellig (same address as applicant), (404) 277-9693. Transporting *floor coverings and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Southeast Carpet Consolidators, Inc., of Dalton, GA.

MC 164107, filed October 5, 1982. Applicant: CONTINENTAL SECURITY GUARDS, INC., 4010 N. 27th Ave., Phoenix, AZ 85017. Representative: John C. Russell, 1545 Wilshire Blvd., Suite 606, Los Angeles, CA 90017, (213) 483-4700. Transporting *coin and currency,* between points in Maricopa County, AZ and Clark County, NV. Condition: The person or persons who appear to be engaged in common control of applicant and 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 Four, Room 2410.

MC 164117, filed October 5, 1982. Applicant: ALVIS H. WILBURN, d.b.a. A & H SALVAGE, P.O. Box 68, Henderson, TX 75652. Representative: Alvis H. Wilburn (same address as applicant), (214) 657-9394. Transporting (1) *machinery,* (2) *building materials,* and (3) *metal products,* between points in the U.S., under continuing contract(s) with Texas Staple Co., Samco, Inc., and Valve Sales Co., all of Houston, TX, Crane & Tractor Co., of Hutchins, TX, K & K Compression, of Pasadena, TX, Midwest Steel & Scrap, of Glendale, AZ, Troy Hawkins, of Wichita Falls, TX, Wooley Fishing Tool, of Kilgore, TX, J. P. Miller Co., of S. El Monte, CA, and Universal Machine, of Harahan, LA.

For the following, please direct status inquiries to Team 5 at 202-275-7289.

Volume No. OP5-222

Decided: October 19, 1982.

By the Commission, Review Board NO. 3 Members Krock, Joyce, and Dowell.

MC 118318 (Sub-64), filed October 1. 1982. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Box Drawer M, Nampa, ID 83651. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701 (208) 343-3071. Transporting *food and related products,* between points in Dakota and Cumming Counties, NE, Crawford, Webster, Woodbury, Cherokee and Buena Vista Counties, IA, Rock City, MN, Lyon and Finney Counties, KS, Potter County, TX, Rock Island County, IL, Ada County, ID, and Walla Walla County, WA, on the one hand, and, on the other, points in the U.S.

MC 146108 (Sub-9), filed October 5 1982. Applicant: BIG T TRANSFER, INC., P.O. Box 287, 222 West 4th St., New Albany, IN 47150. Representative: Harold C. Jolliff, 3242 Beech Drive, Columbus IN 47210 (812) 379-2556. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 147038 (Sub-6), filed October 5, 1982. Applicant: C. STRANGE TRUCKING CO., INC., 805 Ogden St., Marinette, WI 54142. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273-1003. Transporting

metal products, between points in the U.S. (except AK and HI), under continuing contract(s) with Metal Finishing Supply Company, Inc., of Brookfield, WI.

MC 152509 (Sub-33), filed October 5, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant), (216) 566-2677. Transporting *plastic containers,* between points in the U.S. (except AK and HI), under continuing contract(s) with Hoover Universal Inc., Distribution Services, of Georgetown, KY.

MC 160939, filed September 22, 1982. Applicant: MICHAEL R. BOSTIC, d.b.a. BOSTIC SPREADER SERVICE, Route 1, Box 7, Price, MD 21656. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740, 301-739-4860. Transporting *fertilizer,* between points in MD, PA, VA, NJ, DE, NY, and DC.

MC 163378, filed October 4, 1982. Applicant: STREAMSIDE FARMS TRUCKING, INC., R.D. #5, Box 390, Sinking Spring, PA 19608. Representative: Lee E. High, P.O. Box 8551, Reading, PA 19603, (215) 376-6721. Transporting *metal and plastic products,* between points in PA, IL, AZ, CA, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164139, filed October 6, 1982. Applicant: MOUNTAIN WEST TRUCKING, INC., 366 East 900 North, Orem, UT 84057. Representative: Irene Warr, 311 S. State St. Ste. 280, Salt Lake City, UT 84111, (801) 531-1300. Transporting (1) *petroleum, natural gas and their products,* (2) *helicopters and helicopter parts,* and (3) *portable fuel storage tanks,* between points in the U.S. (except AK and HI), under continuing contract(s) with Rocky Mountain Helicopters of Provo, UT.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-29310 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP4-007]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided: October 19, 1982.

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of an application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Carleton and Williams.

Agatha L. Mergenovich,

Secretary.

MC-F 14966, filed October 4, 1982. Applicant: METROPOLITAN TRUCKING, INC. (METROPOLITAN) (75 Broad Ave., Fairview, NJ 07022)—CONTINUANCE IN CONTROL—J.E.M. INTERMODAL SERVICES, INC. (J.E.M.) (26 Hackensack Ave., Kearny, NJ 07032). Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466-0220. METROPOLITAN seeks authority to continue in control of J.E.M. upon the institution by J.E.M. of operations in interstate or foreign commerce, as a motor common carrier. Joseph Mangino, President, and Edward Mangino, Vice President, also seek to continue in control. METROPOLITAN is a motor common carrier pursuant to certificates issued in MC-8973 and sub-numbers thereunder.

Note.—J.E.M. has filed, as a directly related application, its initial common carrier application.This application, docketed No. MC-164127, is published in this same **Federal Register** issue.

[FR Doc. 82-29307 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP4-008]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided: October 19, 1982.

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10920, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate

across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically 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 protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate and applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2. Members Carleton and Williams.

Agatha L. Mergenovich,

Secretary.

MC 164127, filed October 4, 1982. Applicant: J.E.M. INTERMODAL SERVICE, INC., 26 Hackensack Ave., Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466-0220. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Note—This application is directly related to MC-F 14966, which is published in this same **Federal Register** issue.

[FR Doc. 82-29308 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an 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 become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days 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 Team 2, (202) 275-7030.

Volume No. OP2-265

Decided: October 19, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier (Member Parker not participating.)

MC 145733 (Sub-5), filed October 12, 1982. Applicant: AMERICAN AUTO SHIPPERS, INC., 450 Seventh Ave., New York, NY 10123. Representative: Ronald I. Shapss (same address as applicant), 212-239-4610. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164152, filed October 7, 1982. Applicant: ED NORTZ d.b.a. ED NORTZ TRUCKING, RR1, Sellkirk Settlement, Fargo, ND 58103. Representative: Betty Nygaard, Box 682, W. Fargo, ND 5807, (701) 282-5014. 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.

For the following, please direct status inquiries to Team 4 at 202-275-7669.

Volume No. OP4-006

Decided: October 19, 1982.

By the Commission, Review Board Number 2, Members Carleton and Williams.

MC 115557 (Sub-43), filed October 5, 1982. Applicant: CHARLES A. MCCAULEY, 308 Leasure Way, New Bethlehem, PA 16242. Representative: Verne T. Mahood (same address as applicant), (814) 365-5811. Transporting *general commodities*, between Ellendale and Milton, DE, Bartow, Baskins, Bay Pines, Belleair, Belleair Beach, Jungle, Oakhurst, Seminole, Walsingham and West Lake Wales, FL, Arco, Darlington, Leslie, Mackay, and Moore, ID, Adams, Batesville, Greensburg, Huntersville, Morris, New Point, Prescott, Shelbyville, Spades, Sunman, and Waldron, IN, Linwood, Northfield, Pleasantville, Port Morris Junction, South River and Wrights, NJ, Chauncey and Kings Bridge, NY, Lewisburg, Lochiel, Mifflinburg, Montandon Junction, Rouseville, St. Marys and Titusville, PA, on the one hand, and, on the other, points in the U.S. Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423. Condition: The certificate to be issued to the extent it authorizes the transportation of explosives, will be conditioned to expire 5 years from its date of issuance, subject to extension upon appropriate petition.

Note.—The purpose of this application is to substitute motor carrier service for abandoned rail carrier service.

MC 144757 (Sub-24), filed October 5, 1982. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 3104 East St. Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, (605) 343-4036. Transporting *general commodities* between (a) Agar, Gettysburg and Gorman, SD, (b) Klevenville, Mt. Horeb and Verona, WI, (c) Concordia, Emma, Lexington and Sweet Springs, MO, (d) Antoine and Delight, AR, (e) Baker, IL, (f) St. John, ND, (g) Amazon, Basin, Boulder and Clancy, MT, (h) Mahtomedi and Summit, MN, (i) Frisbee, Holcomb and White Oak, MO, (j) Jenera, Mt. Blanchard, Pandora, Pratts, Rimer, Rushmore and Vaughnsville, OH, (k) Greenbrae, CA, (l) Darlington, Leslie, Mackay and Moore, ID, (m) Barite, Bellevue, Cannett, Gimlet, Hailey, Hay, Ketchum, Pagari, Sun Valley and Tikura, ID, (n) New Holland, IL, (o) Bradbury, Falmouth, Greenup, Hidalgo, Janesville, Jones, Rose Hill and Toledo, IL, (p) Armstrong, Dillsburg, Gifford, Penfield, and Potomac, IL, (q) Brownwood, Covel, Hopedale, Natrona, San Jose, and Stanford, IL, (r) Bay Pines and Walsingham, FL, (s) Granville, and Middle Granville, NY, and Poultney, Rupert and West Pawlet, VT, (t) Walford, PA, (u) Cowden, Hills, Hendersonville, Hyland, Muse, Muse Junction and Thompsonville, PA, (v) Frankstown, Ganister, and Williamsburg, PA, (w) Guilford, Ross and Weisburg, IN, (x) Eaton Rapids and Onondaga, MI, (y) Latimer and Orangeville, OH, and Pymatuning, PA, (z) Curry and Martinsburg, PA, (aa) Batesville, Greensburg, New Point, St. Paul, Sunman and Waldron, IN, (bb) North Warren, PA, (cc) Cresco, PA, (dd) Ashcom, Bedford, Claysburg, East Freedom, Fishertown, Mt. Dallas, Osterburg, Queen and Sproul, PA, (ee) Lewisburg, Mifflinburg and Vicksburg, PA, (ff) Linwood and Northfield, NJ, (gg) Chauncy, Dunwoodie and Nepperham, NY, (hh) Abington, East Bridgewater, Kingston, North Abington, North Plymouth, Plymouth, Rockland, South Hanson, South Weymouth, West Hanover, and Whitman, MA, (ii) Needham Junction, MA, (jj) Laurel Junction and McAdo, PA (kk) Titusville, PA, (ll) South River and Wrights, NJ, (mm) Mt. Calvary, NJ, (nn) Blackwell, Bronte, Ft. Chadbourne, Shawville, and Tennyson, TX, on the one hand, and, on the other, points in the U.S. Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423. Condition: The certificate to be issued to the extent it authorizes the transportation of explosives, will be conditioned to expire 5 years from its date of issuance, subject to extention upon appropriate petition.

Note.—The purpose of this application is to substitute motor carrier service for abandoned rail carrier service.

MC 164006, filed September 27, 1982. Applicant: JOSEPH P. CLEARY d.b.a. CLEARY TRUCKING CO.; P.O. Box 528, Simi Valley, CA 93062. Representative: Terry E. Morgan, 2151 Almanor St., Oxnard, CA 93030, (805) 485-2040. (1) Transporting, (a) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (b) *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, and (c) *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. (except AK and HI); and (2) as a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164126, filed October 6, 1982. Applicant: G & E TRUCKING, INC., 1780 Old Covington, Hwy, Conyers, GA 30207. Representative: Esther Brady, 3790 Rosemary Lane, Conyers, GA 30208, (404) 483-1087. 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. (except AK and HI).

For the following, please direct status inquires to Team 5 at 202-275-7289.

Volume No. OP5-223

Decided: October 19, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC 164119, filed October 5, 1982. Applicant: WILLIAM M. ELLIS, d.b.a. MRT INTERNATIONAL, P.O. Box 16251, Long Beach, CA 90806. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945-2745. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-29309 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29869]

Rail Carriers; Chicago, Madison and Northern Railway Co.; Discontinuance, Exemption; Wisconsin Transportation Corp., d.b.a. Central Wisconsin Railroad Co.; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts the discontinuance of operations over three light density, state owned lines by the Chicago, Madison and Northern Railway Company from the requirements of 49 U.S.C. 10903, and the operations over two of these lines by Wisconsin Transportation Corporation d.b.a. Central Wisconsin Railway Company from the requirements of 49 U.S.C. 10901.

DATES: This exemption is effective on November 26, 1982. Petitions for reconsideration must be filed by November 15, 1982, and petitions for stay must be filed by November 5, 1982.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

ADDRESSES: Send petition for reconsideration to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) John F. Jenswold, Chicago, Madison and Northern Railway Company, Suite 900, 16 North Carroll Street, Madison, WI 53701, and

(3) Francis G. McKenna, Esq., Anderson & Pendelton, 1000 Connecticut Ave., NW., Washington, DC 20036.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave. NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area, (800) 424-5403—Toll free for outside the DC area.

Decided: October 15, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-29306 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 376N)]

Rail Carriers; Conrail Abandonment Between Fuller and Kinney, MI; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Fuller, milepost 2.7 and Kinney, milepost 7.5 in the County of Kent, MI, a total distance of 4.8 miles effective on September 20, 1982.

The net liquidation value of this line is $329,796. If within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line, it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-29308 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 155N]

Rail Carriers; Conrail Abandonment Between Benton Harbor and Niles, MI; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Benton Harbor, milepost 0.0 and Niles, milepost 27.0 in the County of Berrien, MI, a total distance of 27.0 miles effective on September 20, 1982.

The net liquidation value of this line is $774,366. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-29301 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 287N)]

Rail Carriers; Conrail Abandonment Between State Line and W. Slateford, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between the NJ-PA State line, milepost 73.2 and W. Slateford, milepost 75.1 in the County of Northampton, PA, a total distance of 1.9 miles effective on July 7, 1982.

The net liquidation value of this line is $119,303. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-29302 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 121N)]

Rail Carriers; Conrail Abandonment of Exposition Spur Running Track in Wayne County, MI; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 0.6 and milepost 2.9 in the County of Wayne, MI, a total distance of 2.3 miles effective on September 20, 1982.

The net liquidation value of this line is $314,861. If within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line, it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-29303 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Section 5b Application No. 7]

Railroads Per Diem, Mileage, Demurrage and Storage—Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Filing of Proposed Amended Rate Bureau Agreement.

SUMMARY: An amended agreement was filed February 1, 1982, on behalf of railroad members of the Association of American Railroads, which participate in this rate bureau agreement, for approval under the provisions of 49 U.S.C. 10706(a). This interterritorial

agreement relates to procedures for the joint consideration or establishment of uniform per diem, mileage, demurrage, and storage rates and charges. Approval of this agreement must be based upon a finding that the making and carrying out of the agreement, as amended, further the transportation policy of 49 U.S.C 10101a. The agreement was filed in purported compliance with 49 CFR Part 1331. The complete application may be inspected at the Office of the Commission in Washington, D.C.

DATES: Parties interested in commenting should request to be included in the service list within 15 days following publication in the **Federal Register.** The service list will be made available to parties. Comments should be filed with the Commission and served on parties of record within 60 days of publication. Replies to comments should be filed and served within 90 days of publication.

ADDRESS: Send service list request, and, if possible, 15 copies of comments and replies to: Interstate Commerce Commission, Office of Preceedings, Room 5340, 12th and Constitution Avenue NW., Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: On February 1, 1982, railroads that are party to the rate bureau agreement approved in Section 5b Application No. 7, *Railroads Per Diem, Mileage, Demurrage and Storage—Agreement,* 358 I.C.C. 481 (1978) [1] requested approval of an amendment to that agreement dated January 1, 1982. Approval of the amendment is required under the provisions of 49 U.S.C. 10706(a).[2] The agreement being amended establishes procedures for joint consideration or establishment of per diem (or car hire) charges (the rate a railroad owning a railroad car charges another railroad for the use of the car while it is on the non-owning railroad); mileage rates or allowances paid by railroads to non-railroad owners of railroad cars; and demurrage or storage charges assessed by railroads against shippers or receivers for undue detention of railroad cars, including use of such cars for storage. The railroads party to the instant rate bureau agreement own or control approximately two-thirds of the freight cars in nationwide interchange service.

The application sets forth certain specific amendments to the agreement, which are stated to be non-substantive changes. The changes requested and our particular concerns are briefly described below.

First Amendment—The first amendment would eliminate Article I of the agreement, which contains several restrictions that are referred to as "rate bureau restrictions."

The *first* restriction is based on the provisions of 49 U.S.C. 10706(a)(3)(A)(i), which state that a rate bureau agreement may not:

"permit a rail carrier to discuss, to participate in agreements related to, or vote on single-line rates proposed by another rail carrier, except that for purposes of general rate increases and broad tariff changes only, if the Commission finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part * * *."

Applicants argue that the legislative history of the Staggers Rail Act of 1980 shows that Congress did not intend such single-line restriction to include proposals for car compensation, demurrage, and car mileage allowances, at H.R. Rep. No. 96-1430, 96th Cong., 2nd Sess. 114 (1980). Within the conference report it is explained that "Car compensation, demurrage, and car allowances are not considered single-line rates." Applicants also argue that the Commission's decision in Section 5b Application No. 2, *Western Railroads—Agreement,* 364 I.C.C. 635 (1981), is to the same effect and supports this interpretation.

The applicants take a broader view of the statutory language than has the Commission. We have in the past construed antitrust exemptions narrowly, and the Staggers Act has mandated even closer scrutiny of such exemptions. Section 5b Application No. 2, *Western Railroads—Agreement, supra,* viewed the language of section 10706(a)(3)(A)(i) in a narrow context. In light of the new rail transportation policy of the Staggers Act, we interpreted the clause to mean that the general prohibition against discussing or voting on the single-line rates of another railroad also extends to single-line changes made through general rate increases and broad tariff changes unless the Commission finds that applying the clause to either of these two ratemaking mechanisms is not feasible (364 I.C.C. at 642). We then found that general application of the prohibition to these ratemaking mechanisms had not been shown to be infeasible and should be implemented. However, based on the legislative history cited above by applicants, we stated in that same decision (364 I.C.C. at 644) that car compensation, demurrage, and car allowances are not charges which should be considered as single-line rates for purposes of the prohibitions of section 10706(a)(3)(A)(i). In a clarification of the prior decision, served May 19, 1982, addressing government-owned car allowances, we reiterated that car compensation charges should not be considered single-line rates. Nevertheless, we stated that collective consideration is precluded where the allowance, demurrage, or car compensation is particularized and does not fall within the definition of a broad tariff change.

This issue has not been fully resolved, and its determination must be addressed in this proceeding. We therefore seek comments on applicants' interpretation of the statute and whether public policy favors their position. More specifically, we seek comments on whether elimination of the first restriction would allow discussion, agreement, or voting on the type of particularized charges referred to in the May 19, 1982 clarification. We also request comment on whether car charges should be effected in a more particularized manner. Commenters should address whether car compensation, demurrage, or car allowances should be individually separated into single-line and joint-line components for purposes of antitrust immunity, and what, if any, practical problems this could create.

We are also interested in comments on whether any of the different types of car charges (car compensation, demurrage, car allowance, and storage charges) might be susceptible to differing exemption treatment. For example, because a demurrage charge accrues solely to a terminating railroad, determination of that charge might be a matter to be resolved solely by individual railroads and shippers. Revenue to a connecting carrier or car owner does not appear directly affected by the level of the demurrage charge. Collective action may not be necessary or appropriate in this situation. We invite comment on whether such separation is possible and on whether different treatment should be accorded in this proceeding to different types of charges.

The *second* restriction is based on the provisions of 49 U.S.C. 10706(a)(3) (A) (ii) and (iii), which require railroads not to discuss, agree on, or vote on any rate proposal applicable to an *interline* route in which they do not practicably

[1] The instant agreement originated in Section 5a Application No. 7, *Association of American Railroads, Per Diem, Mileage, Demurrage and Storage—Agreement,* 277 I.C.C. 413 (1950).

[2] Prior to their codification in Pub. L. 95-473 (95th Congress), the provisions of 49 U.S.C. 10706(a) were contained in Section 5b of the Interstate Commerce Act. (Prior to that, they were contained in Section 5a.)

participate. Applicants argue that car compensation, demurrage and car allowances are exempt from such restrictions because they are either general rate increases or broad tariff changes and not strictly single-line or joint-line proposals. Applicants rely on Section 5b Application No. 7, *supra*, at 484, citing Section 5b Application No. 8, *Railroads Per Diem and Mileage Rates for Trailers and Containers*, decided April 3, 1978 (not printed), where it is stated that such rates and charges are "neither a joint-line nor a single-line proposal within the meaning of Section 5b".

Applicants justify removal of the second restriction on the premise that car compensation, demurrage, and car allowances are now allegedly exempt from the practicably participate (direct connector) definition because such rate changes are either general increases or broad tariff changes exclusively. Parties should address applicants' assertion that car compensation, demurrage, and car allowances are neither single-line nor joint-line rates. In this regard, we note that the decisions in Ex Parte No. 334 (Sub-No. 4), *Flexibility in Setting Railroad Per Diem Levels*, 364 I.C.C. 107 (1980) and 364 I.C.C. 291 (1980), authorized rail carriers to take independent action unilaterally reducing basis per diem levels for freight cars they own or control. These decisions suggest that changes in car compensation, demurrage, and car allowances are not always handled through general increases or broad tariff changes. Parties filing comments thus should discuss whether elimination of the second restriction would result in an unwarranted increase in broad-scale collective action.

It is unclear to what extent these changes have uniform, nationwide application. We seek data from commentors on this question, as well as comments regarding the effect of the proposed amendments on competition. We also seek information from applicants as to the specific manner in which the charges are developed and published, as the extent of immunity depends on the manner in which the charges are developed and published.

The first amendment also removes the shipper-affiliate restriction, which was required by the Commission's decision in Ex Parte No. 297, *Rate Bureau Investigation*, 349 I.C.C. 811, 852 (1975), and was eliminated by a subsequent decision in that same proceeding at 365 I.C.C. 351, 352 (1981).

Second Amendment—The second amendment would change the membership of the Association of American Railroads Operating-Transportation General Committee, which has responsibility for changes in per diem rates or charges for *non-shipper* owned freight cars, and its Committee on Compensation, which has responsibility over changes in allowances, charges, or mileage rates for *shipper* furnished freight cars. By the amendment, each committee would be expanded to include additional members from the two major Canadian railroads, the National Railways of Mexico, and from each railroad on the AAR Board of Directors.

Third Amendment—The third amendment would change *Article VIII* of the agreement, which requires that a public hearing on demurrage and storage proposals must be held regardless of whether any interested or affected party has requested it. Recently, this has resulted in scheduling hearings at which there has been no one in attendance, causing needless expense. The proposed change would conform to another provision in the same article, relating to public hearings for mileage allowance matters, which requires hearings only upon request.

Remaining Amendments—Five additional amendments are stated to be minor. They appear to be largely editorial and are set forth on page 13 of the application.

Conclusion

Regardless of the merit of applicants' legal arguments concerning the applicability of the Staggers Act restrictions, continuing approval of the underlying agreements, as well as approval of any amendments, is required. See 49 U.S.C. 10706 (f) and (h). The applicant carries the burden of showing that the making and carrying out of the agreement will further the transportation policy of 49 U.S.C. 10101a. Specifically, the standard for review involves the resolution of issues such as: (1) Whether the proposed amended agreement would enhance one or more transportation goals; (2) whether the advantages of the agreement override other considerations, such as the anticompetitive nature of the agreement; and (3) whether the agreement is necessary or whether the objectives of the parties could be accomplished instead by some other means. Section 5b Application No. 2, *Western Railroads-Agreement, supra*. Parties, including applicant, should address these issues in detail.

Ex Parte No. 230 (Sub-No. 5), *Improvement of TOFC/COFC Regulation*, 365 I.C.C. 728 (1982), may have a bearing on this application. There a majority of the Commission determined that equipment charges for trailers and containers in exempt intermodal TOFC/COFC service are factors in setting rate levels, and that competition among carriers for such traffic would be increased if the antitrust immunity for collectively setting those charges was eliminated. However, we continued to permit collective consideration of car charges for flatcars used in TOFC/COFC service, since such cars are used fungibly in regulated and exempt service.

The decision in Ex Parte No. 334 (Sub-No. 4), *Flexibility in Setting Railroad Per Diem Levels, supra;* pending matters in Ex Parte No. 334 (Sub-No. 5), *Zone of Reasonableness for Car Hire Charges*, pursuant to 45 FR 73524 dated November 5, 1980 (original decision at 364 I.C.C. 299 (1980)); and deregulation of other areas besides TOFC/COFC may also affect the instant application. A related question is whether the agreement under consideration could or should be restricted to regulated commodities, which it is not at present.

The Commission is soliciting comments concerning what conditions, if any, required by Section 5b Application No. 2, *Western Railroads-Agreement, supra*, should be added to the instant agreement. The Commission is particularly interested in comments covering the practicability and desirability of separating single-line from joint-line rates (as discussed, beginning at 364 I.C.C. at 656). Also, the instant application does not guarantee the publication options mandated by prior decisions, which specifically provide that an individual carrier must have the same publication options under a rate bureau agreement as it does with independent proposals published apart from the bureau (365 I.C.C. at 655). Parties should address whether or not a carrier should be permitted to choose to give advance notice of an independent action on a bureau docket, just as it may now elect whether or not to give prior notice to other carriers and shippers when it files an independent action in its own tariff (364 I.C.C. at 656).

Applicants state that the facts and circumstances relied upon to establish conformity with the National Transportation Policy are the same as those set forth in prior Commission decisions concerning the agreement. The continuing applicability of this rationale should be considered by the parties both with regard to the underlying agreement and the proposed amendments.

Comments should address the specific practical effects of any changes in antitrust immunity. Interested persons

are invited to participate in this proceeding by commenting on the application. In addition to the above specified matters, comments generally should address whether the agreement as amended is justified as being in furtherance of the transportation policy.

This action should not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10706.)

Dated: October 19, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Andre concurred in the result.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-29305 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Application No. MC-1531]

United Van Lines, Inc.; Released Rates

AGENCY: Interstate Commerce Commission.

ACTION: Release Rates Application No. MC-1531.

SUMMARY: United Van Lines, Inc., seeks authority to establish and maintain a new Released Rates Rule to be published in its own tariff which is to be similar to R.R.O. MC-484 presently published in tariffs issued by Household Goods Carriers' Bureau, Agent. The applicant requests this authority in order to extend the application of RRO MC-484 to commodities other than those specifically identified in MC-484 and amendments.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. Brainerd W. LaTourette, Jr., Attorney At Law, County Bank Building, 11 S. Meramec Avenue, Suite 1400, St. Louis, MO 63105, Tele: (314) 727-0777.

FOR FURTHER INFORMATION CONTACT: Mr. Howard J. Rooney, Jr., Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, Tele: (202) 275-7390/0782.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 USC 10730.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-29304 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-123)]

Rail Carriers; Burlington Northern Railroad Co.; Abandonment—Between Creston, IA, and Maryville, MO.; Notice of Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 65.98-mile between Creston, IA (milepost 196.13) and Clearfield, IA (milepost 189.42) in Union, Adams, and Taylor Counties, IA and Nodaway County, MO. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully conpensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10-day period.

Information and procedures regarding financial assistance for continued service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-29485 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-12,642]

Rockport Log & Shake Co., Copalis Crossing, Washington; Negative Determination Regarding Application for Reconsideration

By an application dated June 3, 1982, one of the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Workers Adjustment Assistance in the case of workers and former workers producing red cedar shakes and shingles at the Rockport Log & Shake Company, Copalis Crossing, Washington. The determination was published in the **Federal Register** on May 4, 1982 (47 FR 19251).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner claims that imports of cedar shakes and shingles began in early 1979 and still continue today. Petitioner also claims that the company set up a sales office in an eastern state but was forced to liquidate the entire stock because of imports from Canada.

The petitioners had previously filed for adjustment assistance on May 19, 1980 (TA-W-8120) which resulted in a negative determination issued by the Department on August 4, 1980. The petitioners on September 4, 1980 requested and were granted administrative reconsideration. The original determination was based on the Department's survey of Rockport's major customers (cedar brokers) which revealed that none of them had reduced purchases from Rockport and increased purchases of imports. On January 9, 1981 the Department issued a Notice of Negative Determination on Reconsideration on the basis of a secondary survey of customers of the cedar brokers which revealed that none of these customers increased purchases of imports through the period of Rockport's closure in November 1979. A further allegation by the petitioners was that the company set up a sales office in an eastern state but was forced to liquidate the entire stock because of Canadian imports. However, the sales office was established for only a few months in 1979 on a trial basis. Its operations accounted for a small amount of the subject firm's 1979 sales.

The review of the investigative case file for the most current investigation (TA-W-12,642) shows that the worker petition did not meet the "contributed importantly" test of the increased import criterion of the Trade Act in 1980 or 1981. The "contributed importantly" test is generally demonstrated through the Department's survey of customers of the workers' firm. In addition, the investigation revealed that the decline in domestic housing construction in 1980 and 1981 was an important factor in falling sales of shingles and shakes.

The Department's survey showed that customers accounting for the predominant portion of Rockport Log and Shake's sales decline either did not

purchase imported shakes and shingles or decreased import purchases in 1980 compared to 1979 and in 1981 compared to 1980. Demand for shakes and shingles is determined primarily by the level of activity in the housing industry. Data supplied by the U.S. Department of Commerce showed that housing starts declining by 26 percent in 1980 compared to 1979 and by 15 percent in 1981 compared to 1980. Further, U.S. imports of shakes and shingles declined absolutely in 1980 compared to 1979 and in 1981 compared to 1980.

Conclusion

After review of the application and the investigative filed, 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 18th day of October 1982.

Robert A. Schaerfl,

Director, Office of Program Management Unemployment Insurance Service.

[FR Doc. 82-29328 Filed 10-25-82; 8:45 am]

BILLING CODE 7035-01-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period October 11, 1982–October 15, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-13,048; Helin Tackle Co., Detroit, MI

TA-W-13,191; Michigan Plating & Stamping Co., Grand Rapids, MI

TA-W-13,116; Jones & Laughlin Steel Co., Brier Hill Works, Youngstown, OH

Affirmative Determinations

TA-W-13,110; Concord Coats, Inc., New York, NY

A certification was issued in response to a petition received on November 25, 1981 covering all workers separated on or after November 19, 1981 and before January 1, 1982.

TA-W-13,150; Charley Co., Inc., Hialeah, FL

A certification was issued in response to a petition received on December 15, 1981 covering all workers separated on or after April 3, 1981.

TA-W-13,087; Frier Industries Distribution Corp., Carlstadt, NJ

A certification was issued in response to a petition received on November 2, 1981 covering all workers separated on or after October 26, 1980 and before December 31, 1981.

TA-W-12,996; Allied Chemical Corp., Buffalo, NY

A certification was issued in response to a petition received on September 21, 1981 covering all workers engaged in employment related to the production of oxalic acid separated on or after October 1, 1981.

TA-W-12,895; Eaton Corp., Brake Div., Gallatin, TN

A certification was issued in response to a petition received on August 10, 1981 covering all workers separated on or after March 15, 1981 and before March 15, 1982.

I hereby certify that the aforementioned determinations were issued during the period October 11, 1982–October 15, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 19, 1982.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-29368 Filed 10-25-82; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-82-85-C]

Bethlehem Mines Corp.; Petition for Modification of Application of Mandatory Safety Standard

Bethlehem Mines Corporation, Room 1871, Martin Tower, Bethlehem, Pennsylvania 18018 has filed a petition to modify the application of 30 CFR 75.1719-1(e)(4)(i) (illumination) to its Mine No. 60 (I.D. 36-00958) located in Washington County, Pennsylvania. 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 when longwall mining equipment is being operated, illumination be provided for the length of the self-advancing roof support system which is between the gob side of the travelway and the side of the block of coal from which coal is being extracted.

2. The mine's longwall face is illiminated by lights recessed in the longwall shield canopy.

3. During recovery, wire mesh is used to control gob rock and roof slate. This mesh is normally 12 feet wide by 30 feet in length and is hung in bundles under the longwall shield canopy. As the longwall shields are advanced, during the recovery process the wire mesh is "fed" over the top of each shield.

4. In order to safety install the wire mesh, the longwall lighting system must be disconnected; to effectively protect employees, the wire mesh bundels need to be hing in the same location as the light attachments.

5. Petitioner states that to attempt to install the wire mesh and continue face lighting will result in a diminution of safety for the miners affected because:

a. The bundles of wire mesh would have to be hung on either side of the lights. When hung on the face side of the lights, the wire mesh can be caught in the shearer. If hung on the walkway side of the lights, the wire mesh will interfere with the travelways of the employees, subjecting miners to tripping and other hazards in the immediate vicinity of the moving equipment;

b. The wire mesh is unwielding and tends to get caught in the light wiring and fixtures; and

c. Wire mesh fouling and interference with the lighting installation will impede the expedient recovery process which could create additional roof control hazards for employees.

6. As an alternative method which will at all times provide the same degree of safety to the miners affected as that afforded by the standard, petitioner proposed that:

a. When the longwall face is within approximately 50 feet of the recovery entries, the lights will be disconnected;

b. Wire mesh will be used to control roof slate and gob rock to facilitate safe longwall recovery; and

c. Lights will be used at all times except during the recovery period.

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 November 26, 1982. Copies of the petition are available for inspection at that address.

Dated: October 19, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-29367 Filed 10-25-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-28-M]

Cities Service Co.; Petition for Modification of Application of Mandatory Safety Standard

Cities Service Company, Box 100, Miami, Arizona 85539 has filed a petition to modify the application of 30 CFR 57.4-61A (ventilation doors) to its Old Dominion Mine (I.D. No. 02-00139) located in Gila County, Arizona. 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 to prevent the spread of smoke or gas in the event of a fire, ventilation doors be installed at or near shaft stations of intake shafts and at any shaft designated as an escapeway under 30 CFR 57.11-53, or at other locations which provide equivalent protection.

2. Petitioner states that installation of doors in the primary working area of the mine would hinder emergency evacuation of personnel.

3. The mine has been used as a water reservoir and has been flooded to the 12 level where a pumping station is located. Water is pumped for the mine's mill and a nearby city. The majority of work performed on the 12th level of this mine is maintenance related and this level is the only one presently active.

4. As an alternative method, petitioner proposes that it will:

a. Maintain water hoses and fire extinguishers, and continue the practice of wetting down the wooden lagging;

b. Provide two evacuation routes readily accessible to employees working on the 12th level.

5. Petitioner states that the 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 November 26, 1982. Copies of the petition are available for inspection at that address.

Dated: October 19, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-29366 Filed 10-25-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-77-C]

Hard and Shiney Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Hard and Shiney Coal Company, Inc., R.D. No. 1, Hegins, Pennsylvania 17938 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its No. 5 Slope (I.D. No. 36-07267) located in Schuylkill County, Pennsylvania. 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. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are non-existent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities of air in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternative method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

9. Petitioner states that the proposed alternative method will at all times provide the same measure of protection for the miners affected as that provided 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 November 26, 1982. Copies of the petition are available for inspection at that address.

Dated: October 19, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-29365 Filed 10-25-82; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Washington State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and

Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides after public hearing, for the adoption of State standards which are at least as effective as Federal standards promulgated under section 6 of the Act. Section 1952.123 of Subpart F sets forth the State's schedule for the adoption of Federal standards. By letter dated June 3, 1982 from Richard E. Martin, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as Part of the plan, the State submitted an emergency rule amending WAC 296-62-07314, Medical Surveillance. The amendment now makes the State standard identical to the Federal standard, 29 CFR 1910.20, which was published in the **Federal Register** (45 FR 35212) on May 23, 1980. The State's amendment now specifies that designated employee representatives, as well as employees, are entitled to the examination of medical records. WAC 296-62-07314 became effective on September 25, 1981 and was published in the **Federal Register** (47 FR 11998) on March 19, 1982.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard, it has been determined that the State standards continue to be identical to the comparable Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501; or the Office of State Programs, Room N-3613, 200 Constitution Avenue NW, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective October 26, 1982.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 7th day of September 1982.

Frank L. Strasheim,

Acting Regional Administrator.

[FR Doc. 82-29364 Filed 10-25-82; 8:45 am]

BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-176; Exemption Application No. D-3376]

Exemption From the Prohibitions for Certain Transactions Involving North-Monsen Company Profit Sharing Plan Located in Salt Lake City, Utah

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would permit the proposed sale of a warehouse and office building located at 252 Orchard Place, Salt Lake City, Utah (the Property) and concurrent extension of credit by the North-Monsen Company Profit Sharing Plan (the Plan) to Mr. Kent B. Monsen (Mr. Monsen), a trustee of the Plan and therefore 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, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 3, 1982, notice was published in the **Federal Register** (47 FR 39026) 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 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 is 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 proposed sale of the Property and concurrent extension of credit by the Plan to Mr. Monsen, based on the terms and conditions set forth in the notice of proposed exemption, provided that the terms of the transactions are not less favorable to the Plan than those obtainable 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 transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 21st day of October, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc.82-29383 Filed 10-25-82; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-3373, D-3374 and D-3375]

Proposed Exemption for Certain Transactions Involving the Bell System Trust Located in New York, New York

AGENCY: Department of 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, effective August 9, 1982, (1) the leasing of space in certain real estate (the Office Park) by Tamptel I, Inc., Tamptel II, Inc., Tamptel III, Inc. and Tamptel IV, Inc. (collectively, the Tamptel Corporations), wholly owned subsidiaries of the Bell System Trust (the Trust) to The Equitable Life Assurance Society of the United States (Equitable), the Landmarks Group Services Corporation of Florida (Landmarks) and the Landmarks Group General Corporation (the Management Corporation), all of which are or will be parties in interest with respect to the Bell System Pension Plan and the Bell System Management Pension Plan (collectively, the Plans), and to any other persons or entities that may be parties in interest with respect to the Plans; (2) the acquisition by or for the benefit of the Plans of certain real property (the Contiguous Property) from the Landmarks Group Properties Corporation, Blaine Kelly, Jr. and/or Donald Brooks (collectively, the Owners) or any affiliate of the Owners that may be a party in interest with respect to the Plans; and (3) the leasing of space in any buildings situated on the Contiguous Property, if acquired by or for the benefit of the Plans, to any persons or entities that may be parties in interest with respect to the Plans. The proposed exemption, if granted, will affect Eastdil Advisor, Inc. (Eastdil), the Tamptel Corporations, Landmarks, Equitable, the Management Corporation, the Owners, the participants and beneficiaries of the Plans, and other persons participating in the subject transactions.

DATES: Written comments must be received by the Department on or before December 6, 1982.

EFFECTIVE DATE: If granted, the exemption will be effective August 9, 1982.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application Nos. D-3373, D-3374 and D-3375. 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, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8972. (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) 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 (D) of the Code. The proposed exemption was requested in an application filed by counsel for Eastdil, 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 Trust is a group trust consisting of all the assets of the Plans, both of which are sponsored by the American Telephone and Telegraph Company (AT&T). On December 31, 1981 the Plans covered approximately 1,226,000 participants and had net assets, combined, of approximately $35.8 billion. To promote diversification, AT&T has utilized the professional services of more than a hundred independent trustees and investment managers, including Eastdil and Equitable, to manage the Trust assets.

2. Eastdil, a subsidiary of Eastdil Realty, Inc., is a registered investment advisor under the Investment Advisors

Act of 1940, as amended. Eastdil will act as an independent fiduciary for the Plans with respect to the subject transactions. Eastdil currently manages more than $500 million in corporate pension assets on a separate account basis, the investments of which consist primarily of multi-tenant industrial and commercial properties. As of December 31, 1981 Eastdil was managing approximately $201,000,000 of the Plans' assets, and in addition had committed approximately $307,000,000 of the Plans' assets to real estate transactions closed but not yet funded. Eastdil represents that, to the best of its knowledge, neither Eastdil nor any of its officers, directors, stockholders, employees or agents is affiliated with or otherwise related to Equitable, Landmarks, the Management Corporation, the Owners or any of their respective officers, directors, stockholders, partners, employees, or other affiliates or agents and none of such parties has in any manner influenced the exercise of Eastdil's judgment as a fiduciary for the Plans. Eastdil represents further that it will not receive any consideration for its own account from any party dealing with the Plans.

3. Each of the Tamptel Corporations is a Delaware corporation organized by Eastdil, acting in its capacity as an investment manager for the Plans. Acting in such capacity, Eastdil caused all of the stock of each of the Tamptel Corporations to be issued to the Trust. All of the officers and directors of each of the Tamptel Corporations are employees of Eastdil. None of the Tamptel Corporations has any employees. Each of the Tamptel Corporations has applied for and received an exemption from federal income tax under section 501(c)(2) of the Code.

4. The Office Park consists of four buildings known as the Lakeside Building, the Parkside Building, the Horizon Building and the Pavilion Building (collectively, the Buildings) and adjacent land. The owner-landlord of the land on which the Office Park is situated is the St. Louis Catholic Benevolent and Educational Association (the St. Louis Catholic Association). The St. Louis Catholic Association is not affiliated with any of the parties to this application nor is it a party in interest with respect to the Plans. The ground lease of the Office Park (the Office Park Ground Lease) is held by Landmark Thirty, Ltd., Landmark Thirty-One, Ltd., Landmark Thirty-Two, Ltd. and Landmark Thirty-Three, Ltd., (collectively, the Landmarks Partnerships). The Landmarks Partnerships are limited partnerships which have as their general partner the Landmarks Group Properties Corporation. The Landmarks Partnerships and the Landmarks Group Properties Association are unrelated parties with respect to the Plans. The Office Park Ground Lease held by the Landmarks Partnerships terminates on September 31, 2028, but has four renewal options of ten years each. At the termination of the Ground Lease and any renewals thereof, all leasehold interest in the Office Park and the Buildings thereon will revert to the St. Louis Catholic Association. Eastdil determined that the acquisition of the Office Park Ground Lease was appropriate for the Plans and in the best interests of the Plans' participants and beneficiaries. In early 1980, Eastdil began negotiations for the Tamptel Corporations, on behalf of the Plans, to acquire the Office Park Ground Lease, including the Buildings thereon. Since Eastdil wanted the Plans to have the benefit of any appreciation in the value of the Office Park between June 1980 and the consummation of the entire purchase, Eastdil arranged for the Plans to make leasehold mortgage loans in the aggregate amount of $27,300,000 to the Landmarks Partnerships which were secured by the Buildings, at a fixed interest rate of ten percent per annum, approximating the expected cash flow to the Tamptel Corporations if they had owned the Buildings outright as of that date. The leasehold mortgage loans (the Loans) were made on June 27, 1980 and will mature in 2012. The Loans were made in conjunction with the Plans' acquisition of exclusive purchase options, at an aggregate option price of $470,000 to purchase all, but not less than all, of the Buildings for a purchase price equal to the sum of the Loan amounts and option prices, plus an additional aggregate amount of $4,230,000 payable upon exercise of the options. On August 9, 1982, Eastdil, on behalf of the Tamptel Corporations and the Plans, gave notice of their intent to exercise the options. If Eastdil does not cause the Tamptel Corporations to close on the purchase of the Office Park on or before October 26, 1982, the options will expire. In such event, the Plans would forfeit the $470,000 of option payments already made and be locked into long term leasehold mortgage loans providing for a fixed interest rate of only 10%, considerably below the market rate for such loans in the absence of exclusive purchase options. Furthermore, the Plans would be denied the acquisition of Buildings which Eastdil has determined would have a fair market value in excess of the aggregate purchase price of $32,000,000 and would be denied the opportunity to profit from the anticipated future appreciation in both the cash flow and value of the Buildings.

5. Office space in two of the Buildings in the Office Park, the Lakeside Building and the Horizon Building, is leased to parties which either are or will become, parties in interest with respect to the Plans. Together these leases to parties in interest comprise only 2.1 percent of the total rentable space in the Office Park. Exemptive relief is sought for these leases.

6. Approximately 5.8 percent of the rentable space in the Lakeside Building is currently leased to Landmarks (the Landmarks Lease). Eastdil determined that Landmarks and the Management Corporation, of which Landmarks is a wholly owned subsidiary, would, upon purchase of the Office Park Ground lease, provide services to the Plans as the leasing agent and property manager for the Office Park.[1] The Landmarks Lease had a term which ran from August 15, 1979 through August 14, 1982, with an option to renew, which was exercised, for an additional one year term ending on August 14, 1983. The renewal option provided for an increase in rent to reflect the fair market rental value of the lease space. Eastdil has reviewed and approved all terms and conditions of the Landmarks Lease and the renewal thereof. The applicants desire that Landmarks and/or the Management Corporation be permitted to continue to lease space in the Lakeside Building in conjunction with their provision of leasing and property management services. Eastdil, on behalf of the Tamptel Corporations and the Plans, will not permit any new lease to Landmarks, the Management Corporation or any of their affiliates unless Eastdil determines that its terms are no less favorable to the Plans than a lease which could be entered into with an unrelated third party on an arm's length basis.

7. Approximately 4.2 percent of the rentable space in the Horizon Building is leased to Equitable (the Equitable Lease). Equitable is an investment advisor to the Plans with respect to certain Plan assets not involved in the purchasing or leasing of the Office Park. The Equitable Lease was negotiated and entered into in an arm's length of transaction between unrelated parties prior to the conclusion of negotiations with respect to the acquisition of the

[1] The Department is not proposing an exemption for the provision of services beyond that provided by section 408(b)(2) of the Act.

Office Park Ground Lease. The rental rates initially provided for in the Equitable Lease were not less than fair market rental value. The Equitable Lease has a term which runs from May 1, 1980 to August 31, 1985, subject to a renewal option by Equitable for an additional five year term at the prevailing fair market rental value.

8. In the future, Eastdil or another investment manager for the Plans may determine that it is in the best interest of the Plans to expand the Office Park by acquiring the Contiguous Property from the Owners or affiliates thereof. Following the closing of the purchase of the Office Park Ground Lease by the Temptel Corporations on behalf of the Plans, the Owners will become parties in interest with respect to the Plans by virtue of their ownership of the Management Corporation, which will be providing services for the Tamptel Corporations. Eastdil will not, on behalf of the Plans, permit the acquisition of any property from the Owners or any affiliate of the Owners that may be a party in interest with respect to the Plans, unless (i) such acquisition is negotiated on an arm's length basis and (ii) Eastdil determined that the acquisition of such property is on terms which are no less favorable to the Plans than arrangements which could be entered into by the Plans in an arm's length transaction with an unrelated party.

Also, Eastdil or another investment manager for the Plans may in the future determine that it is in the best interests of the Plans to lease space in the Buildings of the Office Park or in any buildings located on the Contiguous Property to persons or entities that may be parties in interest with respect to the Plans. Eastdil will monitor the obligations of the tenants of the Office Park, including any tenants that may be parties in interest with respect to the Plans. If acquired, the Contiguous Property will also be subject to the monitoring and supervision of Eastdil as described herein. Eastdil will not, on behalf of the Plans, permit the lease of any space in the Office Park or the Contiguous Property to any party in interest with respect to the Plans, unless (i) such lease is negotiated on an arm's length basis and (ii) Eastdil determines that the lease of such space to such person or entity is on terms which are no less favorable to the Plans than arrangements which could be entered into by the Plans in an arm's length transaction with an unrelated party.

9. In summary, the applicants represent that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because:

(1) Eastdil has determined that the subject transactions are appropriate for the Plans and in the best interest of the participants and beneficiaries of the Plans;

(2) Eastdil has approved, and will monitor and supervise all of the subject transactions;

(3) Eastdil will not permit the acquisition of any property from the Owners or any affiliate of the Owners or the lease of any space to any party in interest with respect to the Plans, unless (i) such acquisition or lease is negotiated on an arm's length basis and (ii) Eastdil determines that the acquisition of such property or the lease of space to such person or entity is on terms which are no less favorable to the Plans than arrangements which could be entered into by the Plans in an arm's length transaction with an unrelated party.

Notice to Interested Persons

Notice of the proposed exemption will be posted on all bulletin boards normally used for employee notices of all companies whose employees are covered by the Plans within ten business days of the date of publication of the notice of pendency in the **Federal Register**. Such notice will contain a copy of the notice of pendency published in the **Federal Register** and a statement advising interested persons of their rights to comment on the exemption. Notification will also be provided to the Communication Workers of America, the International Brotherhood of Electrical Workers and the Telecommunications International Union, by first class mail within the time period described above.

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) of the Act and section 4975(c)(1) (E) and (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 and administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments 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 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 representations 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) 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:

(1) The leasing of space in the Buildings to Equitable, Landmarks, the Management Corporation and any other persons or entities that may be parties in interest with respect to the Plans, following the acquisition of the Office Park Ground Lease by the Tamptel Corporations on behalf of the Plans, provided that the terms and conditions of any such leases are at least as

favorable to the Plans as those which are customary for similar leases with respect to similarly situated buildings in the Tampa, Florida area, and provided further that any such leases are approved on behalf of the Plans by a trustee or investment manager which is not affiliated with or otherwise related to such tenants in any manner which would affect the exercise of its judgment as a fiduciary;

(2) The acquisition by or for the benefit of the Plans of the Contiguous Property from the Owners or any affiliate of any of the Owners that may be a party in interest with respect to the Plans, provided that the terms and conditions of any such acquisition are at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party, and that any such acquisition is approved on behalf of the plans by a trustee or investment manager which is not affiliated or otherwise related to the sellers of such property in any manner which would affect the exercise of its judgment as a fiduciary; and

(3) The leasing of space in any buildings situated on the Contiguous Property, if acquired by or for the benefit of the Plans, to any persons or entities that may be parties in interest with respect to the Plans, provided that the terms and conditions of any such lease are at least as favorable to the Plans as those which are customary for similar leases with respect to similarly situated buildings in the Tampa, Florida area, and provided further that any such leases are approved on behalf of the Plans by a trustee or investment manager which is not affiliated with or otherwise related to such tenants in any manner which would affect the exercise of its judgment as a fiduciary.

The proposed exemption, if granted, will be 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 which are the subject of this exemption.

Signed at Washington, D.C., this 20th day of October, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-29382 Filed 10-25-82; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-60)]

Privacy Act of 1974; Systems of Records

In accordance with 5 U.S.C. 552a(e)(4) of the Privacy Act of 1974 (Pub. L. 93-579), the National Aeronautics and Space Administration hereby publishes the systems of records currently maintained by the agency.

Walter B. Olstead,

Associate Administrator for Management.

October 8, 1982.

BILLING CODE 7510-01-M

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NASA 10ACMQ

SYSTEM NAME:

Aircraft Crewmembers Qualifications and Performance Records - NASA

SYSTEM LOCATION:

Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Crewmembers of NASA aircraft.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains: (1) Record of qualification, experience, and currency, e.g., flight hours (day, night, and instrument), types of approaches and landings, crew position, type aircraft, flight check ratings and related examination results, training performed and medical records; (2) flight itineraries and passenger manifests; and (3) biographical information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for; evaluation of crewmember performance by supervisory flight operations personnel and staff; by the individuals whose records are maintained; and on occasion by flight operations and safety survey teams. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) In cases of accident investigations, access to this system of records may be granted to federal or local agencies such as Department of Defense, Federal Aviation Administration, National Transportation Safety Board, or foreign governments; (2) To other agencies, companies, or governments requesting qualifications of crewmembers prior to authorization to participate in their flight programs; or to other agencies, companies, or governments whose crewmembers may participate in NASA's flight programs; (3) With prior approval by the individual - publicity or press releases; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, charts, punched cards, computer printouts.

RETRIEVABILITY:

Records are indexed by name or aircraft number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Transportation and Aircraft Branch, Location 1.

Subsystem Managers: Chief, Ames Aircraft Operations Division, Location 2; Chief, Dryden Aircraft Operations Division, Location 3; Chief, Aircraft Operations Division, Location 5; Chief, Aircraft Operations Section, Location 6; Head, Aircraft Operations Branch, Location 7; Chief, Aircraft Operations Branch, Location 8; Chief, Aircraft Operations, Location 9; Chief Contract Management, Location 10; Data Acquisition Manager, Earth Resources Laboratory, Location 11; Head, Aeronautical Programs Branch, Location 4 (Locations are set forth in Appendix A).

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals, training schools or instructors, medical units or doctors.

NASA 10BRPA

SYSTEM NAME:

Biographical Records for Public Affairs - NASA

SYSTEM LOCATION:

Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, and 11, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principal and prominent management and staff officials, program and project managers, scientists, engineers, speakers, other selected employees involved in newsworthy activities, and other participants in agency program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Current biographical information about the individual with a recent photograph when available. Data items are those generally required by NASA or the news media in preparing news or feature stories about the individual and/or the individual's activity with NASA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is compiled, updated, and maintained at NASA installations for ready reference material and for immediate availability when required by the news media for news stories about the individual generally involving participation in a major NASA activity.

The data serves as background information about the individual and is used within NASA to prepare public appearance announcements of key officials, speaking engagements, special appointments, participation in professional societies, etc.; to write news stories about special achievements, awards, participation in major NASA activities, programs, etc.; and to prepare responses to inquiries submitted to the Public Affairs Division from the news media.

Users are the staff members of the public information office within each office of Public Affairs.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: these records are made available to professional societies, civic clubs, industrial and other organizations, news media representatives, researchers, authors, Congress, other agencies and other members of the public in connection with NASA public affairs activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Since the records are a matter of public information, no safeguard requirements are necessary.

RETENTION AND DISPOSAL:

Records are maintained as long as there is potential public interest in them and are disposed of when no longer required.

SYSTEM MANAGER(S) AND ADDRESS:

Head, Management Services, Public Affairs Division, Location 1.

Subsystem Managers: The Public Affairs Officer at Locations 2, 3, 4, 5, 6, 7, 8, 9, 11, and 12 as set forth in Appendix A.

NOTIFICATION PROCEDURE:

An individual desiring to find out if a Biographical System of Records contains a record pertaining to him/her should call, write, or visit the Public Affairs office at the appropriate NASA location.

RECORD ACCESS PROCEDURES:

An individual may request access to his/her record by calling, writing, or visiting the Public Affairs office at the appropriate NASA locations. Individuals may examine or obtain a copy of their biographical record at any time.

CONTESTING RECORD PROCEDURES:

The information in the record was provided voluntarily by the individual with the understanding that the information will be used for public release. The individual is at liberty at any time to revise, update, add, or delete information in his/her biographical record to his/her own satifaction.

RECORD SOURCE CATEGORIES:

Information in the biography of an individual in the system of records is provided volutarily by the individual generally with the aid of a form questionnaire.

NASA 10EEOR

SYSTEM NAME:

Equal Opportunity Records - NASA

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Location 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Complainants and applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Complaints and (2) applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U. S. C. 2473; 44 U. S. C. 3101; Executive Order 11478, dated August 8, 1969; EEOC Regulations; 29 CFR Part 1613; MSPB Regulations; 5 CFR Parts 1200 - 1202; Equal Opportunity Act 1972, as amended (Pub. L. 92-261); Section 15 of the Age Discrimination in Employment Act of 1967, as amended (Pub. L. 93-259).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to process complaints of alleged discrimination, including investigations, hearings, and appeals; to maintain active discrimination complaints files; and to retain inactive discrimination complaints files.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Equal Employment Opportunity Commission and the Merit Systems Protection Board to facilitate their processing of discrimination complaints, including investigations, hearings and reviews on appeals; (2) Responses to other Federal agencies and other organizations having legal and administrative responsibilities related to the NASA Equal Employment Opportunity Programs and to individuals in the record; (3) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by any combination of name, birthdate, social security number, ethnic groups, grades, topics, statistics.

SAFEGUARDS:

Records are located in locked metal file cabinets, or in metal file cabinets in secured rooms with access limited to those whose official duties require access and are locked during non duty hours.

RETENTION AND DISPOSAL:

Complaint case files for cases resolved within the agency, by EEOC, or by U.S. Court, are destroyed four years after resolution of the case. Other routine office records are reviewed periodically, and are retained or destroyed as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Administrator for Equal Opportunity Programs, Location 1.

Subsystem managers: Equal Employment Opportunity Officer at Locations 1, 3, and 8; Chief, Equal Employment Opportunity Programs Office at Location 2; Head, Equal Opportunity Programs Office at Location 4; Equal Employment Opportunity Programs Officer at Location 5; Equal Opportunity Officer at Location 6; Head, Equal Opportunity Programs Office at Location 7; Director, Equal Employment Opportunity Office at Location 9; Equal Opportunity Officer at Location 11. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Employees, applicants, installation EEO officers, complainants, EEO counselors, EEO investigators, EEOC complaints examiners, MSPB officials, complaints coordinators, Assistant Administrator for Equal Opportunity Programs.

NASA 10ERMS

SYSTEM NAME:

Executive Resources Management System - NASA

SYSTEM LOCATION:

Location 1, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Approximately 2,000 individuals with experience and education unique to the NASA mission in the technical and administrative fields who are considered to be candidates for key positions within NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data, education, training, work experience, career interests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473, 44 U.S.C. 3101, 5 U.S.C. 4103; 5 U.S.C. 3396..

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the identification of replacement candidates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Responses may be made to other federal agencies, and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, lists, forms, index cards, microfilm, microfiche, and/or various computer storage devices such as discs, magnetic tapes and punched cards.

RETRIEVABILITY:

The records are indexed by social security number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures

which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained for varying periods of time depending on the need for use of the files and are destroyed or otherwise disposed of when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Development, Location 1.

Subsystem Managers: None.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager only.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain, NASA employees, other Federal employees, other oranizations and individuals, and NASA personnel records.

NASA 10GMVP

SYSTEM NAME:

Government Motor Vehicle Operators Permit Records - NASA

SYSTEM LOCATION:

Locations 1 through 14 inclusive as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NASA employees, contractor employees, other federal and state government employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, home address, Social Security Number, physical description of individual, physical condition of individual, traffic record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; Federal Personnel Management Manual, Chapter 930; Federal Property Management Regulations Subpart 101-39.601; NASA Management Instruction 6720.1A.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the purpose of identifying and checking record of applicant and issuing permits for operation of Government vehicles. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) National Driver Register, Department of Transportation, where Form 1047 is received for check and (2) Standard routine uses 1 through 4 inclusive, as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are kept in a locked metal file cabinet with access limited to those whose official duties require access. Room is locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are maintained for a period of three years when permit expires or until permit holder leaves the Agency or requests cancellation. Records are destroyed when no longer required.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Budget and Support Branch, Location 1.

Subsystem Managers: Chief, Security Branch, Location 2; Transportation Officer, Location 3; Chief, Logistics Management Division, Location 4; Chief, Transportation Branch, Location 5; Chief of Transportation, Location 6; Chief, Management Support Division, Location 7; Head, General Services Section, Location 8; Director, Logistics Office, Location 9; Chief Contract Management, Location 10; Chief Installation Operations, Location 11; Chief, Administration Office, Location 12; Chief, Maintenance and Administration Office, Location 13; Chief of Facilities, Location 14. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual NASA employees and individual contractor employees.

NASA 10HABC

SYSTEM NAME:

History Archives Biographical Collection-NASA

SYSTEM LOCATION:

Locations 1 and 5 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are of historical significance in aeronautics, astronautics, space science, and other concerns of NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data; speeches and articles by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for researching and writing official histories and answering queries from various NASA offices. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: Disclosure to scholars (historians and other disciplines), or any other interested individuals for research and writing dissertations, articles, and books, for government, commercial and non-profit publication.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in file folders.

RETRIEVABILITY:

The records are indexed by name.

SAFEGUARDS:

Because these records are archive material and therefore a matter of public information, there are no special safeguard procedures required.

RETENTION AND DISPOSAL:

Most biographical files are retained indefinitely, either in the archives or retired to the appropriate Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, History Office, Code LBH-14, Location 1.

Subsystems Managers: Historian, Code BE-4, Location 5 (Locations are set forth in Appendix A).

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Press releases, newspapers, journals, and the individuals themselves.

NASA 10HERD

SYSTEM NAME:

Human Experimental and Research Data Records - NASA

SYSTEM LOCATION:

Locations 2, 3, 5, 6, and 9, as stated in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been involved in space flight, aeronautical research flight, and/or participated in NASA tests or experimental or research programs; Civil Service employees, military, employees of other government agencies, contractor employees, students, human subjects (volunteer or paid), and other volunteers on whom information is collected as part of an experiment or study.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data obtained in the course of an experiment, test, or research medical data from inflight records; other information collected in connection with an experiment, test, or research.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used by NASA for the purposes of evaluating new analytical techniques, equipment, and re-examining flight data for alternative interpretations, developing applications of experimental techniques or equipment, reviewing and improving operational procedures with respect to experimental protocols (both inflight and ground), life support systems operating procedures, determining human engineering requirements, and carrying out other research.

In addition to the internal use of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to other individuals or organizations, including Federal, State, or local agencies, and nonprofit, educational, or private entities, who are participating in NASA programs or are otherwise furthering the understanding or application of biological, physiological, and behavioral phenomena as reflected in the data contained in this system of records; and (2) the standard routine use 4 as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are in file folders; on punch cards, magnetic tapes, or discs; on microfilm, microfiche, still photographs, or motion picture film; and on various medical recordings such as electrocardiographic tapes, stripcharts, and x-rays.

RETRIEVABILITY:

By name, experiment or test; arbitrary experimental subject number; flight designation; or crew member designation on a particular space or aeronautical flight.

SAFEGUARDS:

Access is limited to Government personnel requiring access in the discharge of their duties, and to appropriate support contractor employees on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations set forth in 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Astronaut records are retained indefinitely. Ground test and research data are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed, except that significant medical data will be handled in accordance with CSC regulations and NASA Control Schedule 11.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, NASA Occupational Health Office, Location 1.

Subsystem Managers: Research Assistant to the Director, Location 2; Director of Man/Systems Integration Division, Location 3; Assistant Director for Life Sciences, Space and Life Sciences Directorate, Location 5; Director, Biomedical Office, Location 6; Director, Management Services Office, Location 9. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the system or subsystem manager named above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Experimental test subjects, physicians, principal investigators and other researchers, and previous experimental test or research records.

NASA 10IGIC

SYSTEM NAME:

Inspector General Investigations Case Files - NASA

SYSTEM LOCATION:

National Aeronautics and Space Administration, Washington, DC 20546.

Subsystem Locations: Locations 2, 4, 5, 6, 7, 8, 9 and 10 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of NASA, contractors and sub-contractors, and others whose actions have affected NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files pertaining to matters including, but not limited to, the following classifications of cases: (1)

Fraud against the Government, (2) Theft of Government property, (3) Bribery, (4) Lost or stolen lunar samples, (5) Misuse of Government property, (6) Conflict of interest, (7) Waiver of claim for overpayment of pay, (8) Leaks of Source Evaluation Board information, (9) Improper personal conduct, (10) Irregularities in awarding contracts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 28 U.S.C. 535 (b); 5 U.S.C. App. I; 4 CFR Part 91; Executive Order 11478.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for: (1) Providing management with information which will serve as a possible basis for appropriate administrative action or the establishment of NASA policy; (2) Providing the Administrator of NASA (or the Comptroller General, as appropriate) sufficient information to provide a basis for decision concerning a request for waiver of claim in the case of an erroneous payment of pay.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Responding to the White House regarding matters inquired of; (2) Disclosure to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (3) Providing data to Federal intelligence elements; (4) Providing data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (5) Providing personal identifying data to Federal, State, local or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (6) Disclosing, as necessary, to a contractor, subcontractor, or grantee firm or institution to the extent that the disclosure is in NASA's interest and is relevant and necessary in order that the contractor/subcontractor/grantee is able to take administrative or corrective action; (7) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is stored in file folders, index cards and on computer tapes and disks.

RETRIEVABILITY:

Information is retrieved by name of individual.

SAFEGUARDS:

Information is kept in locked metal file cabinets, and in secured vault and secured computer rooms. Access is limited to Inspector General Division personnel with a need-to-know.

RETENTION AND DISPOSAL:

Special interest case files are reviewed for destruction or further retention 10 years after case is closed and routine interest case files are destroyed 5 years after case is closed. Case is not closed until all judical and administration avenues and considerations have been finally exhausted. (Special interest files are those investigative files which the Assistant Inspector General for Investigations determines should be retained because of especially significant, sensitive, or historical content. All other files are routine interest files.)

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, Location 1.

Subsystem Managers: Director, OIG Office at Ames Research Center, Location 2; Director, OIG Office at Goddard Space Flight Center, Location 4; Director, OIG Office at Lyndon B. Johnson Space Center, Location 5; Director, OIG Office of John F. Kennedy Space Center, Location 6; Director, OIG Office at Langley Research Center, Location 7; Director, OIG Office at Lewis Research Center, Location 8; Director, OIG Office at George C. Marshall Space Flight Center, Location 9; and Director, OIG Office at NASA Resident Office - JPL, Location 10.

NOTIFICATION PROCEDURE:

None. System is exempt. See below.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Exempt.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Inspector General Investigations Case Files system of records is exempt from all sections of the Privacy Act of 1974 (5 U.S.C. 552a), EXCEPT the following:

(b) relating to conditions of disclosure; (c)(1) and (2) relating to keeping and maintaining a disclosure accounting; (e)(4)(A) through (F) relating to publishing an annual system notice setting forth name, location, categories of individuals and records, routine uses, and policies regarding storage, retrievability, access controls, retention and disposal of the records; (e)(6), (7), (9), (10) and (11) relating to agency requirements for maintaining systems; and (i) relating to criminal penalties.

The determination to exempt this system of records has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(j) and Subpart 7 of the NASA regulations appearing in 14 CFR Part 1212, for the reason that the Office of Inspector General, NASA, is a component of NASA which performs as its principal function activity pertaining to the enforcement of criminal laws, within the meaning of 5 U.S.C. 552a(j)(2).

NASA 10PAYS

SYSTEM NAME:

Payroll Systems - NASA

SYSTEM LOCATION:

Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, and 11, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former NASA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data contained in this system of records includes payroll, employee leave, insurance, labor and human resource distribution and overtime information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 5 U.S.C. 5501 et seq.; 5 U.S.C. 6301 et seq.; General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 6; Treasury Fiscal Requirements Manual, Part III; Federal Personnel Manual; and NASA Financial Management Manual, Sections 9300 and 9600.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA

for maintaining the payroll records and related areas.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish to a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions and insurance data with carriers and collection agents; (3) To report to the Office of Personnel Management (a) withholdings of premiums for life insurance, health benefits and retirement, and (b) separated employees subject to retirement; (4) To furnish the U. S. Treasury magnetic tape reports on net pay, net savings allotments and bond transmittal pertaining to each employee; (5) To provide the Internal Revenue Service with detail of wages taxable under the Federal Insurance Contributions Act and to furnish a magnetic tape listing on Federal tax withholdings; (6) To furnish various financial institutions itemized listings of employee's pay and savings allotments transmitted to the institutions in accordance with employee requests; (7) To provide various Federal, state, and local taxing authorities itemized listing of withholdings for individual income taxes; (8) To respond to requests by State employment security agencies and the U.S. Department of Labor for employment, wage, and separation data on former employees for the purpose of determining eligibility for unemployment compensation; (9) To report to various Combined Federal Campaign offices total contributions withheld from employee wages; (10) To furnish leave balances and activity to the Office of Personnel Management upon request; (11) To furnish data to labor organizations in accordance with negotiated agreements; (12) To furnish pay data to the Department of State for certain NASA employees located outside the United States; and (13) Standard routine uses 1 through 4 inclusive as set forth in Apprndix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, and microfilm.

RETRIEVABILITY:

Records are indexed by name and/or social security number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained for audit by the General Accounting Office and are transferred to the National Personnel Records Center, St. Louis, Missouri, anywhere from one to three years. Records are retained and destroyed in accordance with the policies and procedures outlined in NASA Records Disposition Handbook - NHB 1441.1A.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, Office of the Comptroller, Location 1.

Subsystem Managers: Chief, Financial Management Division, Locations 2, 4, 5, and 7; Financial Management Officer, Locations 3; Chief, Financial Management Office, Location 6; Director of Resources Management, Location 8; Director, Financial Management Office, Location 9; Chief, Resources and Financial Management Office, Location 11. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, personnel office, and the individual's supervisor.

NASA 10SCCF

SYSTEM NAME:

Standards of Conduct Counselling Case Files - NASA.

SYSTEM LOCATION:

National Aeronautics and Space Administration, Washington, DC 20546.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current, former, and prospective NASA employees, who have sought advice or have been counselled regarding conflict of interest requirements for government employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Depending upon the nature of the problem, information collected may include employment history, financial data, and information concerning family members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C 3101; 18 U.S.C. 201, 203, 205, 207-209; 5 U.S.C. 7324-7327; Executive Order 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in the system of records is used within NASA for the purpose of counseling employees regarding conflict of interest problems. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Office of Personnel Management and Merit Systems Protection Board: for investigation of possible violations of standards of conduct which the agencies directly oversee; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are documentary and maintained in loose leaf binders or file folders.

RETRIEVABILITY:

By name of individual.

SAFEGUARDS:

Restricted access to a few authorized persons; stored in combination lock safe.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel for General Law, Code GG, NASA Headquarters, Washington, DC 20546.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager and must include employee's full name and NASA installation where employed.

CONTESTING RECORD PROCEDURES:

The NASA regulations and procedures for access to records and for contesting contents and appealing initial

determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Information collected directly from individual and from his official employment record.

NASA 10SECR

SYSTEM NAME:

Security Records System - NASA.

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Location 11, 12, and 14 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, applicants, NASA committee members, NASA consultants, NASA experts, NASA Resident Research Associates, guest workers, contractor employees, detailees, visitors, correspondents (written and telephonic), Faculty Fellows, sources of information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel Security Records, Criminal Matter Records, Traffic Management Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Aeronautics and Space Act, Pub. L. 85-568; Espionage and Information Control Statutes, 18 U.S.C. 793 through 799; Sabotage Statutes, 18 U.S.C. 2151 through 2157; Conspiracy Statute, 18 U.S.C. 371; 18 U.S.C. 202-208 and 3056; Internal Security Act of 1950, 5 U.S.C. 781 through 798; Atomic Energy Act of 1954, Pub. L. 703; Executive Order 11653, Classification and Declassification of National Security Information and Material; Executive Order 10865, Safeguarding Classified Information Within Industry; Executive Order 10450, Security Requirements for Government Employees; Pub. L. 81-733; Executive Order 11490, Assigning Emergency Preparedness Functions to Federal Departments and Agencies; Federal Property Management Regulation, 41 CFR Subpart 101-11; Federal Personnel Manual, Chapters 732 and 736; 14 CFR Part 1203a; 42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Personnel Security Records: The information contained in this category of records is used within NASA for the purpose of granting security clearances; for determining qualifications, suitability, and loyalty to the United States Government; for determining qualifications for access to classified information, security areas, and NASA installations, and for determining qualifications to travel to Communist controlled areas.

In addition to the internal uses of the information contained in this category of records, the following are routine uses outside of NASA: (1) To determine eligibility to perform classified visits to other Federal agencies and contractor facilities; (2) To provide data to Federal intelligence elements; (3) To provide data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (4) To provide a basis for determining preliminary visa eligibility; (5) To respond to White House inquiries; (6) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (7) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (8) Disclosure to a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Criminal Matter Records: The information contained in this category of records is used within NASA for providing management with information which will serve as a possible basis for administrative action. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Traffic Management Records: The information contained in this category of records is used within NASA to provide designated officials and employees with data concerning vehicle ownership, traffic accidents, violation of traffic laws, suspension of driving privileges, traffic control, vehicle parking, and car pools. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, punch cards, microfilm, and film.

RETRIEVABILITY:

Records are indexed by name, file number, organization, place of origin, badge number, decal number, date of event, space number, payroll number, and social security number.

SAFEGUARDS:

Access to Personnel Security Records is controlled by Government personnel exclusively. Access to Criminal Matter Records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. After presenting proper identification and requesting a file or record, a person with a need-to-know and, if appropriate, a proper clearance may have access to a file or record only after it has been retrieved and approved for release by a NASA security representative. These records are secured in security storage equipment.

Traffic Management Records: Access to these records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. Access to these records is permitted after a determination has been made that the requestor has an

official interest. These records are stored in locked containers.

RETENTION AND DISPOSAL:

Records, depending upon type, are retained from 6 months to 30 years before being destroyed. When current immediate need no longer exists, records are either transferred to the appropriate Federal Records Center or destroyed in accordance with records disposal instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, NASA Security Office, Location 1.

Subsystem Managers: Chief, Security Branch, Locations 2, 4, and 5; Security Officer, Location 3; Chief, Security Office, Location 6; Security Officer, Locations 7, 8, and 11; Chief, Security Division, Location 9; Security Officer at Location 12; Safety and Security Officer at Location 15. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above. Requests must contain the following identifying data concerning the requestor: first, middle, and last name; date of birth; social security number; period and place of employment with NASA, if applicable.

RECORD ACCESS PROCEDURES:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information have been exempted by the Administrator under 5 U.S.C. 522a (k) (5) from the access provisions of the Act.

Criminal Matter Records compiled for civil or criminal law enforcement purposes have been exempted by the Administrator under 5 U.S.C. 552a (k) (2) from the access provisions of the Act.

Traffic Management Records: Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

For Personnel Security Records and Criminal Matters Records see Access, above. For Traffic Management Records, the NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the Federal Register.

RECORD SOURCE CATEGORIES:

Personnel Security Records: Exempt

Criminal Matter Records: Exempt

Traffic Management Records: Employees, civil investigative agencies, civil law enforcement agencies, Federal and local judicial systems, medical records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a confidential source, are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (k) (5) and Subpart 7 of the NASA regulations appearing in 14 CFR Part 1212.

Criminal Matter Records to the extent they constitute investigatory material compiled for law enforcement purposes are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (k) (2) and Subpart 7 of the NASA regulations appearing in 14 CFR Part 1212.

Records subject to the provisions of 5 U.S.C. 552 (b) (1) (required by Executive order to be kept secret in the interest of national defense or foreign policy) are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to the access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552A (k) (1) and Subpart 7 of the NASA regulations appearing in 14 CFR Part 1212.

NASA 10OMEH&S

SYSTEM NAME:

System of Occupational Medicine, Environmental Health Offices and Safety Records - NASA

SYSTEM LOCATION:

In Medical Clinics/Units, Environmental Health Offices and Safety Offices at locations 1 through 14 inclusive as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NASA Civil Service employees & applicants; other Agency civil service & military employees working at NASA; visitors to field installations; on-site contractor personnel who receive job related examinations, have mishaps or accidents, or come to clinic for emergency or first aid treatment; space flight personnel and their families.

CATEGORIES OF RECORDS IN THE SYSTEM:

General medical records of first aid, emergency treatment, examinations, exposures, and consultations, and safety records.

Information resulting from physical examinations, laboratory and other tests, and medical history forms; treatment records; screening examination results; immunization records; administration of medications prescribed by private/personal physicians; statistical records; examination schedules; daily log of patients; correspondence; chemical, physical, and radiation exposure records; other environmental health data, alcohol/drug patient information; consultation records; and safety and abatement data.

Astronauts and their families - more detailed and complex physical examinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; OMB Circular A-72; Pub. L. 92-255; Pub. L. 79-658.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the following purposes: Reference by examining physicians in conduct of physical examinations; review by physicians in consideration of fitness for duty; evaluation for physical disability retirement; statistical data development; patient recall; in-space medical evaluation for astronauts; exposure data for radiation/toxic exposure limits, compliance and examinations; consultations; evaluation of employees, applicants, and contractor employees for specialized or hazardous duties for determining reliability pursuant to the Space Transportation System--Personnel Reliability Program (14 CFR Part 1214 Subpart 5, NASA Management Instruction 8610.13, and for safety purposes.

Alcohol/drug patient case files (Employee Assistance Program Records) to be maintained separate from medical record, kept to an absolute minimum and handled with extreme privacy in accordance with Section 408 of Pub. L. 92-255. Disclosure of these records beyond officals of the office having a bona fide need for them or to the person to whom they pertain, is not to be made. Disclosures of information pertaining to an individual with a history of alcohol or drug abuse must be limited in compliance with the restrictions of the confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR Part 2.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Referral to private physicians designated by the individual when requested in writing; (2) Patient referrals; (3) Referral to OPM, OSHA and other Federal agencies as required in accordance with these special program responsibilities; (4) Referral of information to a non-NASA individual's employer; (5) Evaluation by medical consultants; (6) Disclosure to the employer of non-NASA personnel, information affecting the reliability of such office or employee for purposes of the Space Transportation System; and (7) Standard routine use 4 as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are in file folders, punch cards, electrocardiographic tapes, x-rays, and computer discs and tapes. They are handled between NASA installations by telecommunications.

RETRIEVABILITY:

By name, date of birth and social security number.

SAFEGUARDS:

Access limited to concerned medical environmental health and safety personnel on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

In accordance with CSC regulations and NASA Control Schedule II. Records on astronauts are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, NASA Occupational Health Office, Location 1

Subsystem Managers: Medical Director or Medical Administrator at Locations 1 through 14 inclusive as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals, physicians and previous medical records of individuals.

NASA 10SPER

SYSTEM NAME:

Special Personnel Records - NASA

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Location 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Candidates for and recipients of awards or NASA training; civilian and active duty military detailees to NASA: participants in enrollee programs; Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; NASA contract and grant awardees and their associates having access to NASA premises and records; individuals with interest in NASA matters including Advisory Committee Members; NASA employees and family members, prospective employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Special Program Files including: (1) Alien Scientist files; (2) Award files: (3) Counseling files, life and health insurance, retirement, upward mobility, and work injury counseling files; (4) Military and Civilian Detailee files; (5) Personnel Development files such as nominations for and records of training or education, Upward Mobility Program files, Intern Program files, Apprentice files, and Enrollee Program files; (6) Special Employment files such as Federal Junior Fellowship Program files, Stay-in-School Program files, Summer Employment files, Worker-Trainee Opportunity Program files, NASA Executive Position files, Expert and Consultant files, and Cooperative Education Program files; and (7) Supervisory appraisals under Competitive Placement Plan.

Correspondence and related information including: (1) Claims correspondence and records about insurance such as life, health, and travel; (2) Congressional and other Special Interest correspondence, including employment inquiries; (3) Correspondence and records concerning travel related to permanent change of station; (4) Debt complaint correspondence; (5) Employment interview records; (6) Information related to outside employment and activities of NASA employees; (7) Placement follow-ups; (8) Pre-employment inquiries and reference checks; (9) Preliminary records related to possible adverse actions; (10) Records related to reductions-in-force; (11) Records under agency as well as negotiated grievance procedures; (12) Separation information including exit interview records, death certificates and other information concerning deaths, retirement records, and other information pertaining to separated employees; (13)Special planning,

analysis, and administrative information; (14) Work performance records; (15) Working papers for prospective or pending retirements.

Special Records and Rosters including: (1) Locator files; (2) Ranking lists of employees; (3) Repromotion candidate lists; (4) Retired military employee records; (5) Retiree records.

Agencywide and installation automated personnel information.

Rosters, applications, recommendations, assignment information and evaluations of Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; also, information about NASA contract and grant awardees and their associates having access to NASA premises and records.

Information about members of advisory committees and similar organizations.

All NASA-maintained information of the same types as, but not limited to, that information required in systems of records for which the Office of Personnel Management and other Federal personnel-related agencies publish governmentwide Privacy Act Notices in the Federal Register.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used by officials and employees within NASA for preview, planning, review and management decisions regarding personnel and activities related to the records.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Responses may be made to other Federal agencies, and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, lists, forms, index cards, microfilm, microfiche, and/or various computer storage devices such as discs, magnetic tapes and punched cards.

RETRIEVABILITY:

Records are indexed by any one or a combination of name, birthdate, social security number, or identification number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Programs Division, Location 1

Subsystem Managers: Director, Headquarters Personnel Division, Location 1; Director of Personnel, Locations 2, 3, 4, 5, 6, 7, 8, and 9; Chief, Personnel Office, Location 11. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Apply to the System or Subsystem Manager at the appropriate location above. In addition to personal identification (name, social security number, etc.), indicate the specific type of record, the appropriate date or period of time, and the specific kind of individual applying (e.g., employee, former employee, contractor employee, etc.).

RECORD ACCESS PROCEDURES:

Same as notification procedures above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain, NASA employees, other Federal employees, other organizations and individuals.

NASA 10XROI

SYSTEM NAME:

Exchange Records on Individuals - NASA

SECURITY CLASSIFICATION:

Locations 6, 7, 8, and 9 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former employees of, and applicants for employment with, NASA Exchanges, Recreational Associations, and Employees' Clubs at NASA installations. Individuals with active loans or charge accounts at one or more of the several organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Exchange Employees' personnel and payroll records, including injury claims, unemployment claims, biographical data, performance evaluations, annual and sick leave records, and all other employee records. Credit records on NASA employees with active accounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for (1) maintaining exchange employees' payroll, leave, and other records; (2) determining pay adjustment eligibility; (3) determining Federal, State, and City tax withholdings; (4) determining leave eligibility; (5) determining person to notify in emergency; (6) certification of unemployment or injury claims; (7) determining eligibility for employment and promotion; and (8) determining credit standing.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the

verification of employee contributions for insurance data with carriers and collection agents; (3) To provide various Federal, State, and local taxing authorities itemized listing of withholdings for individual income taxes; (4) To respond to State employment compensation requests for wage and separation data on former employees; (5) To report previous job injuries to worker's compensation organizations; (6) For emergency notice to person designated by employee; (7) To report unemployment record to appropriate State and local authorities; (8) When requested, provide other employers with work record; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Exchange personnel records are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

NASA Comptroller, Location 1.

Subsystem Managers: Chairperson, Exchange Council, Locations 6 and 7; Treasurer, NASA Exchange, Location 8; Exchange Operations Manager, Location 9; Head, Administrative Management Branch, and Treasurer Wallops Exchange and Morale Association, Location 4. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the cognizant subsystem managers listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be directed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the Federal Register.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained and the individual's supervisor.

NASA 22OHER

SYSTEM NAME:

LeRC Occupational Radiation Exposure Records - NASA.

SYSTEM LOCATION:

Locations 8 and 13, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former LeRC employees and contractor personnel who may be exposed to radiation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, exposure history, name of license holder, Social Security Number, employment and training history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, 2201; 10 CFR Part 20.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to inform individuals of their radiation dosage.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Standard routine uses 1 through 4 inclusive as set forth in Appendix B and (2) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night.

Records are protected in accordance with the requirements and procedures which appear in the NASA rules section of the Federal Register.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Environmental Health, location 8.

Subsystem manager: Manager, Plum Brook Reactor Facility, Location 13. Locations are set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the cognizant System Manager or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the FEDERAL REGISTER.

RECORD SOURCE CATEGORIES:

Individual is sole source.

NASA 51RSCR

SYSTEM NAME:

GSFC Radiation Safety Committee Records - NASA

SYSTEM LOCATION:

Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, Maryland 20771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Radiation users and custodians under GSFC cognizance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment and training history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; USNRC License and GHB 1860.1, 'Radiation Safety Handbook'; GHB 1860.2 'Radiation Safety Radio-Frequency'; GHB 1860.3 'Radiation Safety Laser'.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this sytem of records is used within NASA for review and approval of custodians and users of ionizing and non-ionizing radiation by the Radiation Safety Committee. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) The Nuclear Regulatory Commission (formerly Atomic Energy Commission)

may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources; (2) Occupational Safety and Health Administration (Federal and State) may inspect records pursuant to fulfilling their responsibilities under the Occupational Safety and Health laws. (3) The Environmental Protection Agency may inspect records pursuant to fulfilling their responsibilities under the Environmental Protection laws and executive order; (4) The Food and Drug Administration may inspect records pursuant to fulfilling their responsibilities respecting use of lasers and x-rays; (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name only.

SAFEGUARDS:

Records are located in locked metal file cabinet in locked room with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are kept for two years. If employee does not wish to be renewed for position at the end of 2-year period, the record is removed and placed in inactive file.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Health, Safety, and Security Office; address same as shown for system location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the system manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Employees

NASA 53BHTR

SYSTEM NAME:

Wallops Flight Center Base Housing Tenant Record - NASA.

SYSTEM LOCATION:

Wallops Flight Center, National Aeronautics and Space Administration, Wallops Island, Virginia 23337

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Tenants of Wallops Housing area.

CATEGORIES OF RECORDS IN THE SYSTEM:

Housing Rental Agreements, records of rent receipts and records of dormitory occupants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for control of family housing and dormitory facilities. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) To furnish to a third party a verification of an employee's tenant status upon a written request of tenant; (2) To furnish verification of residency to various Federal, State, and local authorities; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and card files.

RETRIEVABILITY:

Records are indexed by name and/or room number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained and destroyed in accordance with the policies and procedures outlined in NASA Records Disposition Handbook, NHB 1441.1A.

SYSTEM MANAGER(S) AND ADDRESS:

Head, Wallops Facilities Engineering Branch, Code 273 address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Tenants and dormitory occupants and Administrative Management records.

NASA 72XOPR

SYSTEM NAME:

JSC Exchange Activities Records - NASA.

SYSTEM LOCATION:

Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, Texas 77058.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and past employees of JSC Exchange Operations, applicants under the JSC Exchange Scholarship Program, and JSC employees or JSC contractor employees participating in sports or special activities sponsored by the Exchange.

CATEGORIES OF RECORDS IN THE SYSTEM:

For present and past employees of the JSC Exchange Operations, the system includes a variety of records relating to personnel actions and determinations made about an individual while employed by the NASA Exchange-JSC These records contain information about an individual relating to birth date; social security number; home address and telephone number; marital status; references; veteran preference, tenure, handicap; position description, past and present salaries, payroll deductions, leave; letters of commendation and reprimand; adverse actions, charges and decisions on charges; notice of reduction-in-force; personnel actions, including but not limited to, appointment, reassignment, demotion detail, promotion, transfer and separation; minority group; records relating to life insurance, health and retirement benefits; designation of beneficiary; training; performance ratings; physical examinations; criminal matters; data documenting the reasons for personnel actions or decisions made about an individual; awards; and other information relating to the status of the individual.

For successful applicants under the JSC Exchange Scholarship Program, the system contains information supplied by individual center employees who have

applied for an Exchange Scholarship for their son or daughter and includes, but is not limited to, education, financial transactions or holdings, employment history, medical data and other related information.

For participants in social or sports activities sponsored by the Exchange, information includes employees' or contractors' employee identification number, organization, location, telephone number, and other information directly related to status or interest in participation in such activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; NASA Management Instruction 9050.6; Treasury Fiscal Requirement Manual, Part III, Payroll Deductions and Withholdings; Federal Personnel Manual; JSCM 31712A, Exchange Activities Manual, dated May 1980.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the following purposes: (1) With respect to past or present employees of the JSC Exchange Operations, information in the system is used to: (a) pay employees and advise employees through Leave and Earnings Statements, (b) provide for promotion opportunities, disciplinary actions, staffing controls, budget requirements, employee fringe benefits, and other related personnel managerial purposes, and (c) submit reports in accordance with legal or policy directives and regulations to center management and NASA Headquarters; (2) With respect to successful applicants under the JSC Scholarship Program, the information in the system is used to award scholarships to the sons and daughters of NASA-JSC employees; and (3) With respect to participants in the social or sports activities sponsored by the Exchange, the information maintained in the system is used to facilitate participation in such activities.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA for information maintained on JSC Exchange Operations employees only: (1) Provide information in accordance with legal or policy directives and regulations to the Internal Revenue Service, Department of Labor, Department of Commerce, Texas State Government Agencies, labor unions; (2) Provide information to insurance carriers with regard to worker's compensation, health and accident, and retirement insurance coverages; (3) Provide employment or credit information to other parties as requested by a current or former employee of the JSC Exchange Operations; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

For Exchange employees, records are maintained by name and filed as current or past employee. For Scholarship applicants, records are maintained by name. For participants in social or sports activities, records are maintained by name.

SAFEGUARDS:

Records are located in locked metal file cabinets with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

For employees of JSC Exchange Operations, Personnel Records are retained indefinitely to satisfy payroll, reemployment, unemployment compensation, tax and employee retirement purposes.

For successful applicants under the JSC Exchange Scholarship Program, records are maintained until completion of awarded scholarship and then destroyed. Records pertaining to unsuccessful applicants are returned to them.

For participants in social or sports activities, records are maintained for a stated participation period, and are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Exchange Operations, NASA Exchange - JSC, address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

For employees of the JSC Exchange Operations, information is obtained from the individual employee, the employee references, insurance carriers, JSC Health Services Division, JSC Security, employment agencies, Texas Unemployment Commission, credit bureaus, and creditors.

With respect to the JSC Exchange Scholarship Program, the information is obtained from the parents or guardians of the scholarship participants.

For JSC employees and JSC contractor employees participating in social or sports activities sponsored by the Exchange, information is obtained from the individual participant.

NASA 73FHAP

SYSTEM NAME:

WSTF Federal Housing Administration (FHA) 809 Housing Program - NASA.

SYSTEM LOCATION:

JSC White Sands Test Facility, National Aeronautics and Space Administration, P. O. Drawer MM, Las Cruces, New Mexico 88001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

WSTF Civil Service and contractor personnel who have applied for FHA 809 housing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains personal (name, home address, home phone, age, marital status), realtor/mortgage and employment data. Contains certification by employee, WSTF, and FHA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; and 12 U.S.C. 1748h-1 (Section 809, National Housing Act).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for identification of employees who have applied for and received or not received FHA 809 certificates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Federal Housing Administration to facilitate their issuing or denying 809 housing certificates; (2) Disclosures to realtors and builders to facilitate their activities with respect to the real estate transaction; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and index cards.

RETRIEVABILITY:

Records are indexed by certificate number and person's name.

SAFEGUARDS:

Records are located in locked metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Certificates are held for five years after issuance and then destroyed by shredding. Index cards are held indefinitely in order that an employee will not be authorized more than one certificate.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administration Office, address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

NASA 76RTES

SYSTEM NAME:

KSC Radiation Training and Experience Summary - NASA

SYSTEM LOCATION:

John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Custodians and/or users of sources radiation (ionizing and non-ionizing). Applicable to all users or custodians at KSC and NASA or NASA contractor personnel at Cape Canaveral Air Force Station, Florida, or Vandenberg Air Force Base, California.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals name and radiation related training and experience.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2111, 2201, 2232, 2233, 10 CFR Part 33 for Federal Licensee, and Florida Administrative Code, Chapter 10 D-56 for State Licensee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to determine the suitability of individuals for specific assignments dealing with radiation and to preclude unnecessary exposure to self and others.

In addition to the internal uses of the information contained in this system of records, routine uses outside of NASA include: (1) Disclosure to Air Force Radiation Protection Officers at Eastern Space and Missile Center, Patrick Air Force Base, Florida, and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using sources of radiation to facilitate protection of the individual and the public; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Duplicate copies of the records are maintained for Kennedy Space Center by Pan American World Airways Occupational Medicine and Environmental Health Services. All records maintained by the KSC Biomedical Office or Pan American World Airways consist of 8 1/2 x 11 inch paper files.

RETRIEVABILITY:

Records are indexed by name, program/project title. Use authorization number and/or license number as applicable.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the applicable NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

KSC Radiation Protection Officer; address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the system manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual is sole source.

NASA 76STCS

SYSTEM NAME:

KSC Shuttle Training Certification System (YC 04)

SYSTEM LOCATION:

John F. Kenndey Space Center Systems Training and Employee Development Branch, Kenndey Space Center, FL 32899

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

KSC Civil Service, KSC contractor, and DOD personnel who have received systems, skills, or safety training in support of KSC or Space Shuttle Operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of training attendance and certifications, including certifications of physical ability to perform hazardous tasks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473, 44 U.S.C. 3101

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to determine training needs, and the operational readiness of the work force, to provide data for badging and access control to hazardous areas or critical operations, to determine the size of individual protective equipment and to identify personnel with needed skill combinations. In addition to the internal uses the information contained in this systems of records, the following are routine uses outside of NASA: (1) Disclosure is made of information on employees of KSC contractors to those

contractor organizations and to the Computer Sciences Corporation to facilitate the performance of the contracts. These disclosures are made by Boeing Services International which compiles these training records for KSC; (2) Standard routine uses 1-4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained for KSC by Computer Sciences Corporation on computer tape with printouts made periodically as required. Complete printouts are filed in the KSC Systems Training and Employee Development Branch, and The Boeing Services International Training Office. Records containing raw data on course attendance and trainee statistics are maintained by Boeing Services International for KSC.

RETRIEVABILITY:

Indexed by name, organization, and skill.

SAFEGUARDS:

These listings are automated systems, skills, and safety training records maintained under administrative control of responsible organizations in areas that are locked when not in use. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Outdated records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Systems Training and Employee Development Branch, Kennedy Space Center, FL 32899

NOTIFICATION PROCEDURE:

Individuals may obtain information from the Systems Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and for appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Information is obtained from class rosters, operational records, reports of physical examination completions and actions of certification boards.

NASA 76XRAD

SYSTEM NAME:

KSC USNRC Occupational External Radiation Exposure History for Nuclear Regulatory Commission Licenses - NASA.

SYSTEM LOCATION:

John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

KSC civil servants and KSC contractor personnel who have received radiation exposure.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, exposure history, name of license holder, social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, and 2201; 10 CFR, Part 20 for Federal Licensee; and Florida Administrative Code, Chapter 10 D-56 for State Licensee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to record exposure and to inform individuals of their approaching or exceeding radiation dose limits.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosure to Air Force Radiation Protection Offices at Eastern Space and Missile Center, Patrick Air Force Base, Florida and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using radioactive materials or ionizing radiation producing devices, to facilitate the protection of individuals; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Duplicate copies of the records are maintained for Kennedy Space Center by Pan American World Airways Occupational Medicine and Environmental Health Services. All records maintained by the KSC Biomedical Office or Pan American World Airways consist of 8 1/2 x 11 inch paper files.

RETRIEVABILITY:

Records are indexed by name in personnel dosimetry files.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

Records are maintained indefinitely

SYSTEM MANAGER(S) AND ADDRESS:

KSC Radiation Protection Officer; address same as shown for System Location.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individual is sole source.

APPENDIX A.

LOCATION NUMBERS AND MAILING ADDRESSES OF NASA INSTALLATIONS AT WHICH RECORDS ARE LOCATED.

Location 1.
National Aeronautics and Space Administration
Washington, DC 20546

Location 2
Ames Research Center
National Aeronautics and Space Administration
Moffett Field, CA 94035

Location 3
Hugh L. Dryden Flight Research Facility
National Aeronautics and Space Administration
P. O. Box 273
Edwards, CA 93523

Location 4
Goddard Space Flight Center
National Aeronautics and Space Administration
Greenbelt, MD 20771

Location 5
Lyndon B. Johnson Space Center
National Aeronautics and Space Administration

Houston, TX 77058
Location 6
John F. Kennedy Space Center
National Aeronautics and Space Administration
Kennedy Space Center, FL 32899
Location 7
Langley Research Center
National Aeronautics and Space Administration
Langley Station
Hampton, VA 23665
Location 8
Lewis Research Center
National Aeronautics and Space Administration
21000 Brookpark Road
Cleveland, OH 44135
Location 9
George C. Marshall Space Flight Center
National Aeronautics and Space Administration
Marshall Space Flight Center, AL 35812
Location 10
NASA Resident Office-JPL
National Aeronautics and Space Administration
4800 Oak Grove Drive
Pasadena, CA 91103
Location 11
National Space Technology Laboratories
National Aeronautics and Space Administration
NSTL Station, MS 39529
Location 12
JSC White Sands Test Facility
National Aeronautics and Space Administration
P.O. Drawer MM
Las Cruces, NM 88001
Location 13
LeRC Plum Brook Station
National Aeronautics and Space Administration
Sandusky, OH 44870
Location 14
Michoud Assembly Facility
National Aeronautics and Space Administration
P.O. Box 29300
New Orleans, LA 70129

APPENDIX B

STANDARD ROUTINE USES - NASA

The following routine uses of information contained in systems of records subject to the Privacy Act of 1974 are standard for many NASA systems. They are cited by reference in the paragraph 'Routine uses of records maintained in the system, including categories of users and the purpose of such uses' of the **Federal Register** notice on those systems to which they apply.

Standard Routine Use No. 1 - LAW ENFORCEMENT - In the event that this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2 - DISCLOSURE WHEN REQUESTING INFORMATION - A record from this system of records may be disclosed as a 'routine use' to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

Standard Routine Use No. 3 - DISCLOSURE OF REQUESTED INFORMATION - A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4 - COURT PROCEEDINGS - In the event there is a pending court or formal administrative proceeding, any records which are relevant to the proceeding may be disclosed to the Department of Justice or other agency for purposes of representing the Government, or in the course of presenting evidence, or they may be produced to parties or counsel involved in the proceeding in the course of pre-trial discovery.

[FR Doc. 82-28940 Filed 10-25-82; 8:45 am]
BILLING CODE 7510-01-T

NATURAL SCIENCE FOUNDATION

Commercial and Industrial Firms; Extension of Comment Period

AGENCY: National Science Foundation.

ACTION: Extension of time to comment.

SUMMARY: The National Science Foundation published a statement of principles as NSF policy toward the involvement of commercial and industrial firms with research facilities and equipment supported by NSF. The notice appeared on October 7, 1982, at 47 FR 44448, and requested comments from the public by October 26, 1982. As a result of a number of requests by interested parties to allow additional time to prepare and submit written comments on the proposed policy, NSF has extended the deadline for receipt of such comments, for two additional weeks, until November 9, 1982.

DATE: Send comments to the address listed above on or before November 9, 1982.

ADDRESS: National Science Foundation, 1800 G Street, NW.—Rm 501, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles H. Herz, General Counsel, National Science Foundation, 1800 G Street, NW, Room 501, Washington, DC 20550, (202/357-9435(6).

Charles H. Herz,

General Counsel, National Science Foundation.

[FR Doc. 82-29609 Filed 10-25-82; 11:48 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Clinch River Breeder Reactor Working Group on Structures and Materials; Meeting

The ACRS Subcommittee on Clinch River Breeder Reactor (CRBR) Working Group on Structures and Materials will hold a meeting on November 18, 1982, Room 762, 1717 H Street, NW, Washington, DC. The Working Group will continue its review of the CRBR structures and materials to include leak before break, inservice inspection, weldments, and structural seismic margins.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, November 18, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Department of Energy, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: October 21, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc.82-29381 Filed 10-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247]

Consolidated Edison Co. of New York, Inc.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 80 to Facility Operating License No. DPR-26, issued to the Consolidated Edison Company of New York, Inc. (the licensee) which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, New York. The amendment was effective September 3, 1982.

The amendment on a one-time only basis modifies the plant Technical Specifications to allow the plant to remain in hot shutdown for a total of 5 days while repairing fan cooler unit 24. The amendment was authorized by telephone on September 3, 1982 and confirmed by letter dated September 7, 1982.

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 statement.

For further details with respect to this action, see (1) the telecopy request for amendment dated September 3, 1982, and follow-up letter dated September 13, 1982, (2) the Commission's letter to the licensee dated September 7, 1982, (3) Amendment No. 80 to License No. DPR-26, and (4) the Comission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of October 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1., Division of Licensing.

[FR Doc. 82-29373 Filed 10-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 54 to Facility Operating License No. DPR-6, issued to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Plant (facility) located in Charlevoix County, Michigan. This amendment is effective as of its date of issuance.

The amendment approves Technical Specification changes which pertain to (1) the containment high-radiation monitor required by NUREG-0737, Item II.F.1(3) and (2) the test intervals for Type B and C leak tests required by Appendix J to 10 CFR Part 50.

The applications for amendment comply 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 1, 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 applications for amendment dated December 15, 1981 and January 7, 1980, (2) Amendment No. 54 to License No. DPR-6 and (3) the Commission's related Safety Evaluations. These items are available for public inspection at the commission's Public document Room, 1717 H Street, NW., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. A single copy of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of October 1982.

For the Nuclear Regulatory Commission;

Dennis M. Crutchfield,

Chief Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-29374 Filed 10-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power & Light Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 63 to Provisional Operating License No. DPR-16, issued to GPU Nuclear Corporation and Jersey Central Power & Light Company (the licensees), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

This amendment authorizes the addition of the requirement for making the Control Rod Drive Scram Discharge Volume (SDV) High Level and Scram Trip Bypass Rod Block a part of the Technical Specifications.

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 March 4, 1981, (2) Amendment No. 63 to License No. DPR-16, and (3) the Commission's related Safety Evaluation, including the Technical Evaluation Report prepared by Franklin Research Center. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Local Public Document Room, 101 Washington Street, Toms River, New Jersey 08753. A single 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 15th day of October, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-29375 Filed 10-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-315]

Indiana and Michigan Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 64 to Facility Operating License No. DPR-58, issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit No. 1 (the facility) located in Berrien County, Michigan. The amendment is effective as of the date of issuance.

This amendment permits a one time extension of the current 72 hour out-of-service time for one Safety Injection Pump to 312 hours to allow several minor adjustments to be made to return the pump to peak performance.

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 October 14, 1982, (2) Amendment No. 64 to License No. DPR-58, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. 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 15th day of October 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-29376 Filed 10-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and Cleveland Electric Illumination Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised Technical Specifications (TSs) for operating of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio.

The amendment was authorized by telephone on September 16, 1982, and was confirmed by letter dated September 20, 1982. The amendment permits a one-time extension to the surveillance period for the Steam Line Pressure-Low, instrument. The amendment was issued on an expedited basis to avoid an unnecessary and undesirable shutdown.

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 telecopied application for amendment dated September 17, 1982, and the formal application dated September 30, 1982, (2) the Commission's letter to the licensee dated September 20, 1982, (3) Amendment No. 46 to License No. NPF-3, 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, NW., Washington, D.C., and at the University of Toledo Library, Documents Department, 2801 West Bancroft Avenue, Toledo, Ohio 43606. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of October 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. No. 4 Division of Licensing.

[FR Doc. 82-29377 Filed 10-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which added a license condition and revised Technical Specifications (TSs) for operation of the Davis-Besse Nuclear Power Station, Unit No. 1, (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment adds a condition to the license regarding the implementation of a secondary water chemistry monitoring program and deletes TSs relating to secondary water chemistry.

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 October 3, 1979, (2) Amendment No. 47 to License No. NPF-3, and (3) the Commission's letter to The Toledo Edison Company dated October 15, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the William Carlson Library, University of Toledo, 2301 Bancroft Avenue, Toledo, Ohio 43606. 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 15th day of October 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-29378 Filed 10-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 70-698]

Westinghouse Electric Corp. Waltz Mill Site, Yukon, Pennsylvania; Negative Declaration Regarding Renewal of License No. SNM-770

The U.S. Nuclear Regulatory Commission (the Commission) is considering the renewal of Special Nuclear Material License SMN-770 for the continued operation of Westinghouse Electric Corporation's Waltz Mill site at Yukon, Pennsylvania.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the proposed renewal of license SMN-770. On the basis of this appraisal, the Commission has concluded that the environmental impact created by the proposed license renewal action would not be significant and does not warrant the preparation of an environmental impact statement and, accordingly, it has been determined that a Negative Declaration is appropriate. The environmental impact appraisal is available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Silver Spring, Maryland, this 21st day of October, 1982.

For the Nuclear Regulatory Commission.

R. G. Page,

Chief, Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 82-29380 Filed 10-25-82; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: New.
2. The title of the information collection: NUREG-0906, "Guidance for implementation of the Standard Review Plan Rule."
3. The form number if applicable: Not applicable.
4. How often the collection is required: Non-recurring.
5. Who will be required or asked to report: Future applicants.
6. An estimate of the number of responses: 3.
7. An estimate of the total number of hours needed to complete the requirements of request: 11,500 hour decrease from previous requirement.
8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable.
9. Abstract: NRC regulations, specifically 10 CFR 50.34(g), requires the documentation and evaluation of differences between certain reactor license applications and the acceptance criteria of the Standard Review Plan (NUREG-0800). The proposed "Guidance for Implementation of the Standard Review Plan Rule" discusses the evaluation required, provides a suggested format, and gives illustrative examples.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395-7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland this 22nd day of October 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82-29379 Filed 10-25-82; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Order No. 454; Docket No. A83-3]

Mountville, Georgia 30261 (A. D. Moore, et al., Petitioners); Notice and Order of Filing of Appeal

Issued: October 21, 1982.

On October 12, 1982, the Commission received a petition from A. D. Moore, and 59 other postal patrons from Mountville, Georgia (hereinafter "Petitioners") concerning the alleged United States Postal Service (hereinafter "Postal Service" or "Service") intent to close the Mountville, Georgia post office. The petition not only complains of certain adverse effects this closing would have on the community, but further alleges that an adequate opportunity to be heard was not given.

The Act requires that the Service provide the affected community with at least 60 days notice prior to issuance of its Final Decision. The requirement is to "* * * ensure that such persons will have an opportunity to express their views." [1] The petition does not mention whether this notice was provided. Moreover, there is no mention in the petition of any hearings, nor is there any indication of any Final Determination, in this matter, pursuant to 39 U.S.C. 404(b)(3).[2] Furthermore, petitioners have neither attached a copy of the Postal Service's Final Determination to their petition as is required by Commission rules of practice, nor made any specific reference to 39 U.S.C. 404(b), which gives the Postal Rate Commission jurisdiction in the matters.

However, the document does clearly indicate that petitioners are requesting the type of review provided by statute. Furthermore, petitioners have made a sufficient statement to enable the Commission to assume jurisdiction in this matter. Thus, we conclude that petitioners have substantially complied with Commission rules of practice and their petition will be considered a petition for review pursuant to section 404(b) of the Postal Reorganization Act (hereinafter "Act").

Applicable Law in This Proceeding

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[3]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close or consolidate post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

Upon preliminary inspection, the petitioners appear to raise the following issues of law.

1. Is the Postal Service's proposed closing of this post office consistent with the "maximum degree of effective and regular postal services" standard of 404(b)(2)(C)?

2. As part of the effect on the community standard of section 404(b)(2)(A), must the Postal Service consider the effect the closing of the Mountville post office would have on those doing business within the community?

3. Must the Postal Service consider that the alternative post offices may be inaccessible to a number of Mountville postal patrons as part of its treatment of the "maximum degree of effective and regular postal services" standard of section 404(b)(2)(C)?

Other issues of law may become apparent when the Commission has had an opportunity to examine the determination made by the Postal Service. Such additional issues may emerge during Commission review of the Service's determination. Conversely, the determination may be found to resolve adequately one or more of the issues described above.

Commission Procedure in This Docket

In view of the statutory requirements, and in the interest of expedition of this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above, and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will, within 20 days of receiving the Determination and record pursuant to § 113 of the rules of practice [4] make the request by order specifying the issues to be addressed. When such a request is issued, the memorandum shall be due within 20 days of the issuance, and a copy of the memorandum shall be served on Petitioners by the Service.

In addition, the Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.[5]

In briefing the case, or in filing any motion to dismiss for want of prosecution, in appropriate circumstances, the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases, and none is being appointed.[6]

The Commission Orders:

(A) The petition from A.D. Moore, *et al.* shall be construed as a petition for review pursuant to section 404(b) of the Act (39 U.S.C. 404(b)).

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

(C) The Postal Service shall file the administrative record in this case on or before October 27, 1982, pursuant to the Commission's rules of practice (39 CFR 3001.112(a)).

By the Commission.

David F. Harris,

Secretary.

Appendix

October 12, 1982—Filing of Petition.

October 21, 1982—Notice and Order of Filing of Appeal.

October 27, 1982—Filing of record by Postal Service [*see* 39 CFR 3001.112(a)].

November 1, 1982—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

November 12, 1982—Petitioner's initial brief [*see* 39 CFR 3001.115(a)].

November 29, 1982—Postal Service answering brief [*see* 39 CFR 3001.115(b)].

December 14, 1982—(1) Petitioner's reply brief, if petitioner chooses to file such brief [*see* 39 CFR 3001.115(c)]; (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.

January 7, 1983—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 82-29343 Filed 10-25-82; 8:45 am]

BILLING CODE 7715-01-M

[1] 39 U.S.C. 404(b)(1).

[2] Petitioners have not supplied a copy of the Postal Service's Final Determination, if indeed one is in existence.

[3] 39 U.S.C. 101(b).

[4] 39 CFR 3001.113.

[5] 39 CFR 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

[6] In the matter of Gresham, S.C., Route No. 1, Docket No. A78-1 (May 11, 1978).

DEPARTMENT OF STATE

[Public Notice 829]

Privacy Act of 1974; New System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) and the Office of Management and Budget Circular No. A-108 of September 30, 1975 (40 FR 45877, October 3, 1975), notice is hereby given that the Department of State proposes to establish a new name-retrievable system of records.

The new system is entitled "U.S./Iran Claims Records. STATE-54." It will be used to provide information to attorneys in the Department of State and in other federal agencies who are working on claims against Iran filed in the Iran-United States Claims Tribunal in The Hague, The Netherlands. The information in this system will come from various sources: the individual claimants or their legal representatives, the Tribunal, and U.S. Government attorneys. The information will identify the parties to each claim, the value and nature of the claim, its history and current procedural status in the Tribunal, and other data which will enable U.S. Government attorneys to monitor the progress of claims and identify common legal issues relevant to various groups of claims. By identifying such common issues, the Department of State will be able to facilitate the expeditious processing of claims by the Tribunal and to assist U.S. claimants in the presentation of their claims. The record system will also be used to provide information to the Iran-United States Claims Tribunal, the Government of Iran, and other governments as appropriate.

Any persons interested in expressing views on this new system of records may do so by submitting comments in writing to the Administrator for Iranian Claims, Office of the Legal Adviser, Department of State, 2201 C Street NW., Washington, D.C. 20520. If no comments are received by December 27, 1982, this new record system will go into effect.

The proposed "U.S./Iran Claims Records. STATE-54" will read as set forth below.

For the Secretary of State.

Dated: October 15, 1982.

Richard T. Kennedy,

Under Secretary for Management.

SYSTEM NAME:

U.S./Iran Claims Records.

SYSTEM LOCATION:

Department of State, 2201 C Street, NW., Washington, D.C. 20520

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. nationals with claims filed against Iran in the Iran-United States Claims Tribunal in The Hague, The Netherlands.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data relating to claims filed in the Iran-United States Claims Tribunal, including the names and addresses of parties to the claims, the value and nature of the claims, their procedural history in the Tribunal (hearing dates and decisions), correspondence, memoranda, and data which will enable U.S. Government attorneys to identify common legal issues in the claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS IN THE SYSTEM:

The Office of Iranian Claims in the Office of the Legal Adviser will use this record system to organize information concerning claims before the Tribunal. The information will be used primarily by attorneys and paralegals in the Office of Iranian Claims to facilitate their processing such claims. Certain information would also be made available to attorneys in other government agencies involved in the claims program, principally the Departments of Justice, the Treasury, and Defense, as well as to the Iran-United States Claims Tribunal, the Government of Iran, and other governments as appropriate. The information may also be released to other government agencies having statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer media; hard copy.

RETRIEVABILITY:

By claim number or individual claimant name; by nature or amount of claim; by other descriptive features of claim.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background investigation. Access to the Department of State building and its annexes is controlled by security guards, and admission is limited to those individuals under proper escort. All records containing personal information are maintained in secured filed cabinets or in restricted areas, access to which is limited to authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained for the duration of the Iran-United States Claims Tribunal and for any period of time thereafter in which such records may be required to prepare a summary of the Tribunal's work.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Office of the Legal Adviser, Room 5519A, Department of State, 2201 C Street, NW., Washington, D.C. 20520.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Office of the Legal Adviser might have records pertaining to them should write to the Information and Privacy Coordinator, Room 1239, Department of State, 2201 C Street, NW., Washington, D.C. 20520. The individual must specify that he/she wishes the records of the Office of the Legal Adviser to be checked. At a minimum, the individual must include: name; date and place of birth; claim registration number; present mailing address and zip code; and signature.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to them should write to the Information and Privacy Coordinator (address above).

CONTESTING RECORD PROCEDURES:

(See above.)

RECORD SOURCE CATEGORIES:

The individual or his legal representative, the Iran-United States Claims Tribunal, the Office of the Legal Adviser

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), certain records contained within this system of records are exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f). See Department of State rules published in the **Federal Register**

[FR Doc. 82-29342 Filed 10-25-82; 8:45 am]

BILLING CODE 4710-08-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 207
Tuesday, October 26, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-365 (Amdt. 1); October 19, 1982]

Addition to the October 21, 1982 Meeting

TIME AND DATE: 10 a.m., October 21, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 12a. Docket 35634, IATA agreements proposing a revised North/Central Pacific cargo rate structure. (BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the secretary (202) 673-5068.

[S-1545-82 Filed 10-22-82; 3:48 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Wednesday, October 27, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Reauthorization.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1538-82 Filed 10-22-82; 12:55 pm]

BILLING CODE 6351-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Thursday, October 28, 1982.

LOCATION: Third floor hearing room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Toy Chests*
   The staff will brief the Commission on the advance notice of proposed rule making concerning the strangulation risk presented by Toy Chests and options for action.
2. *Children's Sleepwear Enforcement Policy*
   The staff will brief the Commission on proposed statements of policy concerning the children's sleepwear standards.
3. *Over-the-Counter Antihistamines*
   The Commission will consider the issue of whether to propose to require special packaging under the Poison Prevention Packaging Act for over-the-counter antihistamines.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207; 301-492-6800.

[S-1543-82 Filed 10-22-82; 3:48 pm]

BILLING CODE 6355-01-M

4

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, October 27, 1982.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public:

1. *Kerosene Heaters*
   The Commission will be briefed by staff on status of the kerosene heaters project. Representatives from Consumers Union, Underwriters Laboratories, The National Kerosene Heaters Association and The American Petroleum Institute will participate with staff in the briefing.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207; 301-492-6800.

[S-1544-82 Filed 10-22-82; 3:48 pm]

BILLING CODE 6355-01-M

5

FEDERAL COMMUNICATIONS COMMISSION

October 21, 1982.

Open Commission Meeting, Thursday, October 28, 1982

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, October 28, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C.

Agenda, Item No., and Subject

General— 1— *Title:* Implementation of the Final Acts of the World Administrative Radio Conference, Geneva, 1979. *Summary:* The FCC will consider amendment of Part 2 of its Rules to implement domestically the radio frequency spectrum allocations adopted by the 1979 World Administrative Radio Conference.

General— 2— *Title:* Amendment of Part 15 Rules to provide for remote control and security devices (FCC Docket 20990). *Summary:* The Commission reconsiders several aspects of the rules recently adopted by Report and Order in this Docket for non-licensed radio control equipment used in wireless security and medical alert systems and other short-range, remote controlled systems. One consideration involves the susceptibility and interference potential of these devices to the Amateur Radio Service. The other basic issue involves the allowable self-testing rate of tramsmission (polling) for radio control transmitters in wireless security systems.

Private Radio— 1— *Title:* Allocation of frequencies in the 72-76 MHz band for use by fixed stations in the Automobile Emergency Radio Service. PR Docket No. 82-121, RM 3964. *Summary:* The FCC will consider whether to adopt a Report and Order allowing the use of 72-76 MHz frequencies for fixed purposes in the Automobile Emergency, as well as the Taxicab, Manufacturers, and Telephone Maintenance Radio Services.

Private Radio— 2— *Title:* Amendment of Part 2 of the rules to permit temporary use of additional frequencies in the Amateur Radio Service on a secondary, non-interferences basis. *Summary:* The Commission will consider whether to amemd its rules to make additional frequencies (10.100-10.150 MHz) available to the Amateur Radio Service for a temporary period.

Cable Television— 1— *Title:* "Request for Issuance of Tax Certificate" (CSR-2198) filed May 14, 1982, by California Oregon Broadcasting, Inc. *Summary:* California Oregon Broadcasting, Inc., pursuant to Section 1071 of the 1954 Internal Revenue

Code, requests issuance of a tax certificate in connection with the sale of Southern Oregon Broadcasting Company d.b.a. Southern Oregon Cable TV.

Cable Television— 2— *Title:* "Petition for Reconsideration" (CSR-1340) filed June 8, 1981, by Desert Empire Television Corporation, licensee of Station KMIR-TV (NBC, Channel 36), Palm Springs, California. *Summary:* Desert Empire Television Corporation, licensee of Station KMIR-TV (NBC, Channel 36) Palm Springs, California, seeks reconsideration of the Commission's action in *Desert Empire Television Corporation*, FCC 81-196, 86 FCC 2d 644 (1981), denying the station's request for waiver of Section 76.92(g) of the Commission's Rules.

Assignment and Transfer— 1— *Title:* (1) Applications for the assignment of licenses of stations KXXX and KXXX-FM, Colby, Kansas, from Golden Plaines, Inc. to Lesso, Inc. (BAL-820216GF and BALH-820216GG); and (2) Request of Lesso, Inc., for a waiver of Section 73.35(a) of the Commission's Rules, the "duopoly" rule, which prohibits 1 mV/m signal contour overlap between commonly-owned AM stations. *Summary:* The Commission will consider whether the facts of this case warrant a waiver of the Commission's AM duopoly rule.

Renewal— 1— *Title:* License Renewal Application of Provident Broadcasting Company for Station WQCX(FM), Manchester, Georgia. *Summary:* The East Central Alabama-West Central Georgia Minority Christian Broadcast Coalition filed a petition to deny alleging that licensee's programming does not serve the needs and interests of the local minority population and that licensee's employment practices regarding minorities do not comply with the Commission's EEO rules and policies. The Commission considers petitioner's allegations.

Broadcast— 1— *Title:* Petition for Reconsideration of Report and Order deleting Section 73.3611 of the Commission's Rules, Form 324—Annual Financial Report of Broadcasting Stations. *Summary:* The Commission will consider the petition for reconsideration filed in the above proceeding.

Broadcast— 2— *Title:* Disclosure of FCC Form 324, Annual Financial Reports of Networks and Broadcasting Licensees. *Summary:* The Commission has before it two *Petitions for Rule Making* regarding the disclosure of financial data reported on FCC Form 324.

Complaints and Compliance— 1— *Title:* Application for Review of Jose Pedro Bio. *Summary:* Mr. Bio seeks review of the Broadcast Bureau's determination that sanctions need not be imposed against station WJFD-FM for its violation of certain political broadcasting rules because they were nonflagrant and not made in bad faith. Mr. Bio also seeks clarification regarding the seven-day notification period under the personal attack rule.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: October 21, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1531-82 Filed 10-22-82; 10:12 am]

BILLING CODE 6712-01-M

6

FEDERAL COMMUNICATIONS COMMISSION

October 20, 1982.

Deletion of Agenda Item From October 21st Closed Meeting

The following item has been deleted at the request of the Office of Commissioner Dawson from the list of agenda items scheduled for consideration at the October 21, 1982, Closed Meeting and previously listed in the Commission's Notice of October 14, 1982.

Agenda, Item No., and Subject

Hearing—5—Applications for Review of a Hearing Designation Order and questions certified by the ALJ in the Vallejo, California, comparative TV proceeding (Docket Nos. 81-912-16).

Issued: October 20, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1532-82 Filed 10-22-82; 10:12 am]

BILLING CODE 6712-01-M

7

FEDERAL COMMUNICATION COMMISSION

October 21, 1982.

Closed Commission Meeting, Thursday, October 28, 1982

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, October 28, 1982, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Draft Decision in the WIOO, Inc., Carlisle, Pennsylvania, AM radio comparative renewal proceeding (Docket Nos. 21506-07).

Hearing—2—Application for Review of a Hearing Designation Order in the Kannapolis, North Carolina, comparative television proceeding (Docket Nos. 82-259, 82-260).

Hearing—3—Petition for review of a final Review Board Decision in the Payson, Arizona FM radio proceeding (Docket Nos. 80-559 and 80-560).

Hearing—4—Application for Review in the Theodore E. Sousa Citizens Band license revocation proceeding (SS Docket No. 78-89).

Hearing—5—Application for Review of a Hearing Designation Order and questions certified by the ALJ in the Vallejo, California, comparative TV proceeding (Docket Nos. 81-912-16).

Hearing—6—Draft Decision in the Hart, Michigan, comparative FM proceeding (Docket Nos. 80-688 and 80-689).

Hearing—7—Applications for Review and Certified Question in the William M. Rogers Amateur Radio license revocation proceeding (PR Docket Nos. 79-48, 49 and 50).

These items are closed to the public because they concern adjudicatory matters (see 47 CFR 0.603(j)).

The following persons are expected to attend:

Commissioners and their Assistants
General Counsel and members of his staff
Managing Director and members of his staff
Chief, Office of public Affairs and members of his staff

Action by the Commission:

Hearing Items 1 thru 4 and 7 October 18, 1982. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson and Sharp voting to consider these items in Closed Session.

Hearing Items 5 and 6 October 12, 1982. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp voting to consider these items in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: October 21, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1533-82 Filed 10-22-82; 10:12 am]

BILLING CODE 6712-01-M

8

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, November 1, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: October 22, 1982.

James McAfee,

Associate Secretary of the Board.

[S-1542-82 Filed 10-22-82; 3:33 pm]

BILLING CODE 6210-01-M

9

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-45]

TIME AND DATE: 3:30 p.m. Tuesday, November 2, 1982.

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. Investigations 731-TA-108/109 (Preliminary) (Portland Hydraulic Cement from Australia and Japan)—briefing and vote.
6. Investigations 731-TA-110/111 (Preliminary) (Bicycles from Korea and Taiwan)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1540-82 Filed 10-22-82; 3:10 pm]

BILLING CODE 7020-02-M

10

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-46]

TIME AND DATE: 2:30 p.m., Thursday, November 4, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Investigation 731-TA-112 (Preliminary) (Steel Wire Rope from Korea)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1541-82 Filed 10-22-82; 3:10 pm]

BILLING CODE 7020-02-M

11

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 10 a.m., Monday, November 1, 1982.

PLACE: Board Conference Room, sixth floor, 1717 Pennsylvania Avenue, NW.

STATUS: Parts of this meeting will be opened to the public. The rest of the meeting will be closed to the public pursuant to 5 U.S.C. 552b (c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Portions open to the public:

Continued Publication of *An Outline of Law & Procedure in Representation Cases.*

Portions closed to the public:

Status of and personnel matters relating to the Puerto Rico Regional Office.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, D.C. 20570; telephone: (202) 254-9430.

Dated: Washington, D.C., October 22, 1982.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[S-1534-82 Filed 10-22-82; 11:04 am]

BILLING CODE 7545-01-M

12

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-82-26]

TIME AND DATE: 9 a.m., Thursday, November 4, 1982.

PLACE: NTSB Board Room, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: The first five items will be open to the public; the remaining items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report:* Derailment of Southern Pacific Transportation Campany Train No. 01-BSMFF-05, Carrying Radioactive Material, Thermal, California, January 7, 1982, and Recommendations to Southern Pacific Transportation Company, Research and Special Programs Administration, Association of American Railroads, American Short Line Railroad Association, American Trucking Association, Inc., Federal Railroad Administration, and Federal Highway Administration
2. *Letter* to the Federal Railroad Administration closing out 18 safety recommendations regarding track safety standards.
3. *Aircraft Accident Report:* Sunwest Airlines, Inc., Piper PA-31, Durango, Colorado, December 31, 1981.
4. *Marine Summary Reports.*
5. *Marine Summary Reports.*
6. *Order Denying Reconsideration:* Administrator v. Tracy, Dkt. SE-5194; deposition of Administrator's petition for reconsideration.
7. *Order Denying Reconsideration:* Administrator v. Daiker, Dkt. SE-5247; deposition of Administrator's petition for reconsideration.

CONTACT PERSON FOR MORE INFORMATION: Sharon Fleming (202) 382-6525.

October 22, 1982.

[S-1535-82 Filed 10-22-82; 12:55 pm]

BILLING CODE 4910-58-M

13

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-82-25]

TIME AND DATE: 9 a.m., Tuesday, November 2, 1982.

PLACE: NTSB Board Room, 800 Independence Ave., SE., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report:* Fire On Board the Training Ship BAY STATE at the Massachusetts Maritime Academy, Buzzards Bay, Bourne, Massachusetts, December 22, 1981, and Recommendations to the Massachusets Maritime Academy and the U.S. Maritime Administration.
2. *Letter* to the Air Line Pilots Association regarding Petition for Reconsideration of Probable Cause in Aircraft Accident Report—North Central Airlines, Inc., Convair 580, N4825C, Kalamazoo, Michigan, July 25, 1978.
3. *Letter* to Kellogg Company regarding Motion to Withdraw Probable Caouse, Reconsider, and Investigate Further the Aircraft Accident involving an Avionics Marcel Dassault-Brequet Aviation, Falcon 10, N243K, Miegs Field, Chicago, Illinois, January 30, 1980.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

October 22, 1982.

[S-1536-82 Filed 10-22-82; 12:55 pm]

BILLING CODE 4910-58-M

14

PAROLE COMMISSION

[3P0401]

National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters).

TIME AND DATE: 10 a.m., Tuesday, October 26, 1982.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed meeting to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 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, United States Parole Commission (301) 492-5987.

[S-1539-82 Filed 10-22-82; 2:44 pm]

BILLING CODE 4410-01-M

15

UNITED STATES RAILWAY ASSOCIATION

DATE AND TIME: October 28, 1982, 10 a.m.

PLACE: Board Room, Room 2-500, fifth floor, 955 L'Enfant Plaza North, S.W., Washington, D.C.

STATUS: The first portion of the meeting will be closed to the public; the second portion will be open.

MATTERS TO BE CONSIDERED BY THE USRA BOARD OF DIRECTORS: Portion Closed to the Public (10 a.m.):

1. Internal Personnel Matters.
2. Review of Conrail Confidential and Proprietary Financial Information.

Portion Open to the Public (10:30 a.m.):

3. Approval of Minutes of September 9, 1982 Meeting.
4. Conrail Monitoring Indicators.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202) 488-8777, ext. 503.

[S-1537-82 Filed 10-22-82; 12:55 pm]

BILLING CODE 8240-01-M

federal register

Tuesday
October 26, 1982

Part II

Department of Health and Human Services

Food and Drug Administration

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph for OTC Bronchodilator Drug Products

DEPARTMENT OF HEALTH AND HUMAN SERVICES

21 CFR Part 341

[Docket No. 76N-052B]

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph for OTC Bronchodilator Drug Products

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) bronchodilator drug products (drug products used in the symptomatic treatment of the wheezing and shortness of breath of asthma) are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal deals only with bronchodilator drug products and is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs on the proposed regulation by December 27, 1982. New data by October 26, 1983. Comments on the new data by December 26, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Comments on the agency's economic impact determination by February 23, 1983.

ADDRESS: Written comments, objections, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. New data and comments on new data should also be addressed to the Dockets Management Branch.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 9, 1976 (41 FR 38312), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products, together with the recommendations of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in these drug classes. Interested persons were invited to submit comments by December 8, 1976. Reply comments in response to comments filed in the initial comment period could be submitted by January 7, 1977.

In a notice published in the **Federal Register** of March 21, 1980 (45 FR 18400), the agency advised that it had reopened the administrative record for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products to allow for consideration of data and information that had been filed in the Dockets Management Branch after the date the administrative record previously had officially closed. The agency concluded that any new data and information filed prior to March 21, 1980 should be available to the agency in developing a proposed regulation in the form of a tentative final monograph.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information. Data and information received after the administrative record was reopened have also been put on display in the Dockets Management Branch.

FDA is issuing the tentative final monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products in segments. This document on bronchodilator drug products is the second segment to be published. The first segment on anticholinergic drug products and expectorant drug products was published in the **Federal Register** of July 9, 1982 (47 FR 30002). Subsequent segments on antitussives, antihistamines, nasal decongestants, combinations, etc., will be published in future issues of the **Federal Register**.

The advance notice of proposed rulemaking, which was published in the **Federal Register** on September 9, 1976 (41 FR 38312), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarily, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) the FDA states for the first time its position on the establishment of a monograph for OTC bronchodilator drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC bronchodilator drug products.

In response to the advance notice of proposed rulemaking, 4 manufacturers, 2 manufacturers' associations, 1 consumer, 39 health care professionals, and 19 health care professional societies submitted comments on bronchodilator drug products. Copies of the comments received are also on public display in the Dockets Managment Branch.

This tentative final monograph would amend Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations in Part 341 (as set forth in the tentative final monograph on anticholinergic drug products and expectorant drug products that was published in the **Federal Register** of July 9, 1982 (47 FR 30002)) in Subpart A, by adding in § 341.3, new paragraph (c); by adding Subpart B, consisting at this time of § 341.16; and in Subpart C, by adding new §§ 341.76 and 341.90. This proposal constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC bronchodilator drug products, as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them.

FDA published in the **Federal Register** of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established.

Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph (46 FR 47738).

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register**. In some advance notices of proposed rulemaking previously published in the OTC drug review, the agency suggested an earlier effective date. However, as explained in the tentative final monograph for OTC anticholinergic drug products and expectorant drug products (published in the **Federal Register** of July 9, 1982; 47 FR 30002), the agency has concluded that, generally, it is more reasonable to have a final monograph be effective 12 months after the date of its publication in the **Federal Register**. This period of time should enable manufacturers to reformulate, relabel or take other steps to comply with a new monograph with a minimum disruption of the marketplace thereby reducing economic loss and ensuring that consumers have continued access to safer and effective drug products.

On or after the effective date of the monograph, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce. Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the **Federal Register** of August 9, 1972 (37 FR 16029) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Tentative Conclusions on the Comments

1. Many comments, mostly from health care professionals, objected to the Panel's recommendation that theophylline be available OTC. The comments raised two major concerns: appropriate dosages are difficult to determine, and the potential risk of toxicity is great. Several other comments supported the Panel's placement of theophylline in Category I, citing the savings in time and money to patients who would no longer have to visit a physician to obtain a prescription and nothing that adverse reactions tend to be minor while benefits in relief of wheezing and labored breathing tend to be significant.

Several comments objected to the term "excessive use" in the warning against the use of theophylline in children under 12 years of age in § 341.76(b)(4)(v). Another comment objected to the Panel's recommendations concerning the theophylline tablet dissolution testing in § 341.45. One comment pointed out that unpublished information has been generated indicating that measurements of whole-blood theophylline levels are almost as high as measurements of serum theophylline levels. A manufacturer of timed-release products commented that in view of the Panel's conclusion that small doses of theophylline at more frequent time intervals are desirable, timed-release dosage forms of theophylline may be preferable to immediate-release dosage forms.

In the **Federal Register** of December 10, 1976 (41 FR 54032), the agency announced that it did not agree with the Panel's recommendation that theophylline be classified in Category I and be made available for OTC use as a single ingredient. At that time, the agency stated that additional information, which was not available during the Panel's deliberations, indicated that the Panel's recommended therapeutic dose may be toxic to some individuals and suggested that the safe and effective use of theophylline requires careful dosage titration based on theophylline serum concentrations. The December 10, 1976 notice included a summary of the information on which the agency's decision was based. None of the comments in favor of the OTC availability of theophylline contained data from studies in support of a change in the agency's decision to place theophylline as a single ingredient in Category II. The advantages of OTC availability of theophylline cited by these comments, e.g., savings in time and money when a prescription is not required to obtain theophylline, do not outweigh the potential risk of toxicity. The agency therefore reaffirms its December 10, 1976 decision at this time and tentatively concludes that theophylline should not be available as a single ingredient in OTC drug products. Accordingly, §§ 341.16(d), 341.45, 341.76(b)(4), and 341.90(k) have been deleted from the monograph. Specific responses to the comments concerning the warning against the use of the drug in children under 12 years of age, dissolution testing of theophylline preparations, whole-blood and serum levels of theophylline, and timed-release dosage forms are obviated at this time by the agency's decision to place theophylline as a single ingredient in Category II.

The agency is reviewing the use of theophylline as an ingredient in OTC combination drug products and will address such combinations in a future **Federal Register** publication of the tentative final monograph for cold, cough, allergy, bronchodilator, and antiasthmatic combination products. Should the agency determine that theophylline-containing combinations are generally recognized as safe and effective, the above-mentioned sections, modified to apply to theophylline-containing combinations only, will be incorporated into the monograph at that time. The agency will also respond to specific comments concerning the warning against the use of theophylline in children under 12 years of age, dissolution testing of theophylline preparations, whole-blood and serum levels of theophylline, and timed-release dosage forms at that time should theophylline-containing combinations be included in the monograph.

2. One comment requested clarification of the phrase "pressurized preparation," as used by the Panel in stating its conclusions on the dosage of epinephrine-containing products (41 FR 38372), and asked whether the phrase

refers to an aerosol preparation, to a hand-held nebulizer preparation, or to both.

FDA has approved a number of epinephrine-containing aerosol products for OTC marketing through the NDA procedure. These products are marketed in containers pressurized with propellants, which dispense metered doses of the drug for oral inhalation in the form of an areosolized spray. There are other epinephrine-containing solutions on the OTC market that are to be used with hand-held nebulizers. Based upon a review of the Panel's report and minutes of the Panel meetings, the agency concludes that the Panel intended the phrase "pressurized preparation" to apply only to aerosol preparations.

3. A number of comments disagreed with the Panel's recommendation to allow the OTC marketing of epinephrine inhalation products for the treatment of asthma and recommended that the agency require these products to be dispensed only by prescription. The comments generally expressed the opinion that the self-diagnosis and self-treatment of asthma with aerosolized epinephrine can lead to serious clinical consequences. The comments argued that asthmatic patients have a propensity for abusing propellant devices and that this abuse could produce a psychological dependence and result in the administration of toxic doses of epinephrine. The comments also argued that there is a possibility of fatal reactions in asthmatics with cardiac disease who self-medicate with these products. The comments noted that the agency had proposed in the **Federal Register** of April 15, 1972 to limit epinephrine inhalation products to prescription use and stated that the agency should not have suspended that action.

The Panel reviewed the available data for epinephrine products, including the references cited in the agency's proposal of April 15, 1972. The Panel, therefore, was aware of the risks associated with the self-diagnosis and self-treatment of asthma, as well as the abuse potential and the possible adverse effects that may occur with the use of epinephrine inhalation products. However, the Panel concluded from these data that these risks are adequately defined for epinephrine inhalation products in § 341.76(b)(3) and do not outweigh the benefits to be derived from the OTC use of these products.

The comments provided no additional data that persuade the agency to limit epinephrine inhalation products to prescription use only. The Panel acknowledged that asthma requires professional diagnosis and management and recommended a warning in § 341.76(b)(1) for all bronchodilators, "*Caution:* Do not take this product unless a diagnosis of asthma has been made by a physician." The Panel believed, and the agency concurs, that once the diagnosis of asthma has been made by a physician it is reasonable to have bronchodilators available OTC so that in mild cases relief may be obtained quickly without the delays of obtaining a physician's prescription.

The agency believes that epinephrine, epinephrine bitartrate, and epinephrine hydrochloride (racemic) can be generally recognized as safe and effective when used in an aqueous solution equivalent to 1 percent epinephrine in a hand-held rubber bulb nebulizer at a dosage for adults and children 4 years of age and older of 1 to 3 inhalations not more often than every 3 hours.

Based on the Panel's recommendations and an OTC marketing history of many years under approved NDAs (Ref. 1), the agency also believes that epinephrine, epinephrine bitartrate, and epinephrine hydrochloride (racemic) in pressurized metered-dose inhalation aerosol dosage forms can be generally recognized as safe and effective at a dosage for adults and children 4 years of age and older of 1 to 2 inhalations of a metered dose equivalent to 0.16 to 0.25 milligram (mg) epinephrine per inhalation not more often than every 3 hours. The agency believes that requiring a metered-dose range for pressurized aerosol dosage forms in addition to the Panel's recommended dosage provides additional assurance that the product can be used safely on an OTC basis.

In a study by Kjellman, Tollig, and Wettrel (Ref. 2) comparing racemic epinephrine and salbutamol, 10 asthmatic children ranging from 7 to 16 years of age inhaled 2 doses of 0.9 milligram per kilogram bodyweight (a dose of 18 mg for a 20-kilogram (44-pound) child) racemic epinephrine 150 minutes apart. Blood pressure and heart rate were measured during and after the dosing period. No significant changes were found in the heart rate or the diastolic pressure. A small but significant increase was found in the mean systolic pressure (+7 millimeters of mercury) 5 minutes after the inhalation of epinephrine. There was no significant change in systolic pressure at 30 minutes and 150 minutes after inhalation of epinephrine. The dose given showed only a mild effect in blood pressure measurements even though it was more than 36 times greater than the highest dose (0.50 mg epinephrine in two inhalations) proposed by the agency for metered-dose aerosols. The agency believes that the proposed dose provides an adequate margin of safety for the OTC marketing of epinephrine or the equivalent in a metered-dose aerosol inhalation dosage form.

The agency proposes the following labeling directions for epinephrine, epinephrine bitartrate, and epinephrine hydrochloride (racemic) in pressurized metered-dose inhalation aerosol dosage forms based on the Panel's recommendations and the currently approved NDA labeling for these products (Ref. 1):

(i) *For use in a pressurized metered-dose aerosol container.* Each inhalation contains the equivalent of 0.16 to 0.25 milligram of epinephrine base.

(*a*) Inhalation dosage for adults and children 4 years of age and older: start with one inhalation, then wait at least 1 minute. If not relieved, use once more. Do not use again for at least 3 hours. The use of this product by children should be supervised by an adult. Children under 4 years of age: consult a doctor.

(*b*) The labeling must include directions for the proper use of the inhaler and for the proper care and cleaning of the mouthpiece. The directions must be clear, direct, and provide the consumer with sufficient information for the safe and effective use of the product.

References

(1) Copy of FDA-approved labeling including dosages from NDA 10-374, NDA 16-126, and NDA 16-803, OTC Volume 04BTFM, Docket No. 76N-052B, Dockets Management Branch.

(2) Kjellman, B., H. Tollig, and G. Wettrell, "Inhalation of Racemic Epinephrine in Children with Asthma," *Allergy*, 35:605-610, 1980.

4. Several comments objected to the Category I classification of methoxyphenamine hydrochloride and recommended that this ingredient be available only by prescription. The comments argued that methoxyphenamine is a weak bronchodilator, that there are better bronchodilators on the market, and that because it is an adrenergic compound it possesses the potential to cause adverse cardiovascular effects. One of the comments also expressed the opinion that methoxyphenamine should not be allowed OTC because asthma should be diagnosed and managed by health professionals and marketing the drug OTC would not be in the best interest of the public.

Besides the Panel's evaluation, methoxyphenamine hydrochloride was

also reviewed by the National Academy of Sciences—National Research Council (NAS/NRC) Drug Efficacy Study Group for several indications including its use as a bronchodilator. Based on the report of the NAS/NRC Drug Efficacy Study Group, FDA, in a notice published in the **Federal Register** of April 26, 1972 (37 FR 8405), concluded that methoxyphenamine was possibly effective as a bronchodilator. No new data to support the effectiveness of methoxyphenamine were submitted in response to the April 26, 1972 **Federal Register** notice. Therefore, the agency published a notice of opportunity for hearing in the **Federal Register** of August 21, 1973 (38 FR 22501) reclassifying methoxyphenamine from possibly effective to lacking substantial evidence of effectiveness. No response was filed following the August 21, 1973 notice of opportunity for hearing. Therefore, in a notice of withdrawal of approval published in the **Federal Register** of January 16, 1981 (46 FR 3983), FDA withdrew approval of NDA 6-550 for methoxyphenamine hydrochloride and extended the notice to "any drug product that is identical, related, or similar to" the drug product containing methoxyphenamine hydrochloride.

The data reviewed by the NAS/NRC Drug Efficacy Group and the Panel concerning the effectiveness of methoxyphenamine hydrochloride were the same with the exception of a study by Roy, Seabury, and Johns (Ref. 1) which was reviewed by the Panel but not by the NAS/NRC Drug Efficacy Study Group. The agency has reviewed this study and concludes that it is inadequate to demonstrate the effectiveness of methoxyphenamine hydrochloride. The subjects studied included patients with mild hypertrophic emphysema as well as bronchial asthma. The authors did not specify which results were obtained in patients with bronchial asthma alone. Thus, the data cannot be analyzed with respect to the effectiveness of methoxyphenamine hydrochloride in the OTC target population, i.e., patients with mild bronchial asthma.

Therefore, the agency has reclassified methoxyphenamine hydrochloride in Category II in this tentative final monograph.

Reference

(1) Roy, E. C., J. H. Seabury, and L. E. Johns, Jr., "Spirometric Evaluation of Orthoxine in Bronchial Asthma," *Journal of Allergy*, 20:364-368, 1949.

5. One comment objected to the placement of belladonna alkaloids used as bronchodilators in Category II. The comment claimed that inhaled smoke from burning a stramonium belladonna preparation in cigarette or powder form provides asthmatic patients with relief of bronchial spasms. The comment maintained that marketing experience for over 100 years, submitted effectiveness studies, and a low incidence of reported intoxications should justify the ingredient's placement in Category I or at least Category III to allow for additional testing.

The agency disagrees with the comment. FDA affirms the Panel's determination that the effectiveness studies that were conducted were not sufficient to establish general recognition of effectiveness for belladonna alkaloids as a bronchodilator. FDA also agrees with the Panel that potential toxicity problems represent a negative benefit-to-risk ratio in that the psychotomimetic (producing manifestations resembling those of a psychosis, e.g., visual hallucinations, distortion of perception, and schizophrenia-like behavior) properties and potentially excessive anticholinergic effects of these drugs are undesirable characteristics for an OTC drug product. The agency believes that there is insufficient evidence to indicate that further testing would support Category I status for these drugs and concurs with the Panel's Category II classification.

6. One comment objected to the Panel's recommendation of a double-blind crossover protocol for testing Category III bronchodilators. The comment maintained that a crossover or parallel study would be appropriate, depending on the specific ingredient to be tested, and that the manufacturer should be allowed to choose which protocol to use.

In the preamble to the agency's proposed rule revising the OTC procedural regulations (45 FR 31422), the agency advised that tentative final and final monographs will no longer contain recommended guidelines for testing Category III ingredients. Interested persons may submit data and information to demonstrate the safety or effectiveness of any bronchodilator ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47770). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submissions of test data and other information. Thus the agency will not address this comment at this time, but will be glad to discuss the design of studies for specific bronchodilator drugs with manufacturers who may conduct such studies.

7. One comment suggested that the Panel's recommended drug interaction precaution for bronchodilator drug products should be deleted. This proposed precaution is "Do not take this product if you are presently taking a prescription antihypertensive or antidepressant drug containing a monoamine oxidase inhibitor." The comment argued that terms such as "antihypertensive," "antidepressant," and "monoamine oxidase inhibitor" are highly technical; that only a small percentage of the population is likely to understand this warning; and that including such a warning in the labeling of an OTC drug is contrary to the well-established principle that unnecessary or confusing precautions tend to dilute the significance of all instructions in the labeling and, hence, should be avoided.

The agency agrees with the comment that the Panel's proposed drug interaction precaution may not be readily understood by all consumers. However, it considers a warning of this type necessary to alert consumers because antihypertensive and antidepressant drugs are widely prescribed. To simplify this precautionary statement the agency is proposing to substitute the term "high blood pressure" for the term "antihypertensive" and the term "depression" for "antidepressant." The agency also believes that the words "monoamine oxidase inhibitor" would be confusing to consumers and need not be included in the precautionary statement to convey the intended message. Accordingly, the drug interaction precaution has been revised and will read as follows: "*Drug interaction precaution:* Do not take this product if you are presently taking a prescription drug for high blood pressure or depression, without first consulting your doctor."

8. One comment stated that the Panel used an inappropriate standard in categorizing some Category II claims, and that the Panel rejected claims such as "relieves gasping of air," "free breathing restored," and "breathes a sigh of relief" because the claims were made in emotional terms. The comment argued that there is no statute that bans emotional claims on the labeling of OTC drugs and urged FDA to reject all recommendations of the Panel based on an "improper standard."

The agency agrees with the Panel that these claims are inappropriate for OTC labeling and should remain in Category II. The Panel's purpose in reviewing

labeling claims was to eliminate false, vague, confusing, and misleading claims. The agency believes that the above claims should be in Category II because they do not specifically indicate the pharmacologic effect of a drug and are exaggerated. Such overstatements and exaggerations tend to create a false image of a drug and are unclear and potentially misleading.

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions.

1. *Summary of ingredient categories.* The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and has proposed the recategorization of two bronchodilator active ingredients. In addition, the agency proposes to place metaproterenol sulfate in a metered-dose inhalation aerosol dosage form in Category I. For the convenience of the reader, the following table is included as a summary of the categorization of bronchodilator active ingredients by the Panel and the proposed classification by the agency.

Bronchodilator active ingredients	Panel	Agency
Belladonna alkaloids	II	II
Ephedrine	I	I
Ephedrine hydrochloride		
Ephedrine sulfate		
Racephedrine hydrochloride		
Epinephrine	I	I
Epinephrine bitartrate		
Epinephrine hydrochloride (racemic)		
Euphorbia pilulifera	III	III
Metaproterenol sulfate	[1]	I
Methoxphenamine hydrochloride	I	II
Pseudoephedrine hydrochloride	II	II
Pseudoephedrine sulfate		
Theophylline (anhydrous)	I	II
Aminophylline		
Theophylline calcium salicylate		
Theopyhlline sodium glycinate		

[1] Not reviewed.

2. *Testing of Category II and Category III conditions.* The Panel recommended testing guidelines for bronchodilator drug products (41 FR 38329 and 38376). The agency is offering these guidelines as the Panel's recommendations without adopting them or making any formal comment on them. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any bronchodilator ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes in the Panel's Recommendations.

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the bronchodilator section of the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made in the Panel's conclusions and recommendations follows.

1. The agency has classified in Category I epinephrine, epinephrine bitartrate, and epinephrine hydrochloride (racemic) in an aqueous solution equivalent to 1 percent epinephrine when used in a hand-held rubber bulb nebulizer. The agency has also proposed a dose for epinephrine, epinephrine bitartrate, and epinephrine hydrochloride (racemic) in a pressurized metered-dose inhalation aerosol dosage form of 1 to 2 inhalations of the equivalent of 0.16 to 0.25 mg epinephrine not more often than every 3 hours for adults and children 4 years of age and older. (See comment 3 above.)

2. The agency has reviewed the literature concerning the safety and effectiveness of metaproterenol sulfate as a bronchodilator in the form of a pressurized metered-dose inhalation aerosol and believes that it can be generally recognized as safe and effective for OTC use. Metaproterenol sulfate has been marketed under an approved NDA for 9 years as a prescription drug product in a pressurized metered-dose inhalation aerosol dosage form that contains 0.65 mg per inhalation with an adult dosage of 1 to 3 inhalations not more often than every 3 hours (Ref. 1).

The agency has reviewed studies by Emirgil, Dwyer, and Sobol (Ref. 2); Rodgers and Bickerman (Ref. 3); Chester et al. (Ref. 4); Roth, Watson, and Novey (Ref. 5); Shim and Williams (Refs. 6 and 7); Blackhall, Macartney, and O'Donnell (Ref. 8); and Chervinsky and Belinkoff (Ref. 9) concerning the safety and effectiveness of metaproterenol sulfate in a pressurized metered-dose inhalation aerosol dosage form. Several of these studies evaluated products that are marketed under the approved NDA (Refs. 2, 3, 4, 7, 8, and 9), and all but one (Ref. 3) were double-blinded. All of the studies were performed in asthmatic patients, although one study (Ref. 3) also included patients with chronic bronchitis and patients with emphysema and chronic bronchitis, and another study (Ref. 9) also included patients with chronic bronchitis. A crossover design was used in all of the studies. Seven of the studies evaluated inhaled doses of metaproterenol sulfate within the dosage range of 0.65 to 1.95 mg (Refs. 2 through 6, 8, and 9). The eighth study evaluated an inhaled dose of 3.25 mg metaproterenol sulfate (Ref. 7). All of the studies demonstrated an immediate bronchodilator effect after metaproterenol sulfate inhalation. Those studies that measured bronchodilation beyond 3 hours after dosing showed a 3- to 6-hour duration of action (Refs. 2 through 6 and 9).

Five of the studies detected no significant change in blood pressure measurements following inhalation of metaproterenol sulfate (Refs. 2, 3, 5, 7, and 9), and six of the studies detected no significant change in the pulse rate (Refs. 2, 3, 5, 7, 8, and 9). In one study, a patient gagged once on a dose of metaproterenol (Ref. 9). This was not a serious reaction and the patient was able to continue the dosage schedule without further problems. Seven of the studies did not detect any adverse reactions to inhaled metaproterenol sulfate (Refs. 2 through 8). However, a review of FDA adverse reaction reports since 1973 indicates that adverse reactions such as dizziness, nervousness, dry mouth, rapid heart beat, palpitations, and allergic reactions have been reported in cases where inhaled metaproterenol sulfate was the only drug given. In these cases, overdose was not indicated, other circumstances were not indicated as a cause of the reaction, and enough information was available to indicate a possible cause-and-effect relationship between the use of inhaled metaproterenol sulfate and the reaction.

Based on the safe and effective use of metaproterenol sulfate in a pressurized metered-dose inhalation aerosol dosage form under an approved NDA for 9 years, on a review of the literature, and on a review of FDA adverse reaction reports, the agency believes that metaproterenol sulfate can be generally recognized as safe and effective. The agency is therefore proposing that metaproterenol sulfate be Category I as an OTC bronchodilator in a pressurized metered-dose inhalation aerosol that contains 0.65 mg per inhalation with an adult dosage of 1 to 3 inhalations not more often than every 3 hours. The labeling directions and warnings are based on the current NDA approved labeling (Ref. 10).

References

(1) Letter from J. R. Crout, M.D., FDA, to Boehringer Ingleheim Ltd., OTC Volume 04BTFM, Docket No. 76N-052B, Dockets Management Branch.

(2) Emirgil, C., K. Dwyer, and B. J. Sobol, "A Comparison of the Duration of Action and the Cardiovascular Effects of Metaproterenol and Isoetharine-Phenylephrine Combination," *Current Therapeutic Research*, 19:371-378, 1976.

(3) Rodgers, J. M., and H. A. Bickerman, "An Evaluation of the Duration of Bronchodilator Activity of Bronkometer[R] and Metaprel[R] in Patients with Reversible Bronchospasm," *Current Therapeutic Research*, 28:147-153, 1980.

(4) Chester, E. H., et al., "Bronchodilating Effect of Terbutaline Aerosol," *Clinical Pharmacology and Therapeutics*, 23:630-634, 1978.

(5) Roth, M. J., A. F. Wilson, H. S. Novey, "A Comparative Study of the Aerosolized Bronchodilators, Isoproterenol, Metaproterenol and Terbutaline in Asthma," *Annals of Allergy*, 38:16-21, 1977.

(6) Shim, C., and M. H. Williams, Jr., "Comparison of Oral Aminophylline and Aerosol Metaproterenol in Asthma," *The American Journal of Medicine*, 71:452-455, 1981.

(7) Shim, C., and M. H. Williams Jr., "Bronchial Response to Oral Versus Aerosol," Metaproterenal in Asthma *Annals of Internal Medicine*, 93:428-431, 1980.

(8) Blackhall, M. I., B. Macartney, and S. R. O'Donnell, "The Acute Effects of the Administration of Rimiterol Aerosol in Asthmatic Children," *British Journal of Clinical Pharmacology*, 6:59-62, 1978.

(9) Chervinsky, P., and S. Belinkoff, "Comparison of Metaproterenol and Isoproterenol Aerosols: Spirometric Evaluation after Two Months' Therapy," *Annals of Allergy*, 27:611-616, 1969.

(10) Copy of FDA-approved labeling from NDA 16-402, OTC Volume 04BTFM, Docket No. 76N-052B, Dockets Management Branch.

3. The agency has deleted § 341.16(c) and the reference to § 341.16(c) in § 341.76(b)(2) of the Panel's recommended monograph. These sections provided dosages and warnings for methoxyphenamine hydrochloride. The agency has reclassified methoxyphenamine hydrochloride in Category II. (See comment 4 above.)

4. The agency has deleted §§ 341.16(d), 341.45, 341.76(b)(4), and 341.90(k) of the Panel's recommended monograph. These sections provided dosages, testing guidelines, warnings, and professional labeling for single ingredient theophylline products. In the **Federal Register** of December 10, 1976 (41 FR 54032), the agency announced that it disagreed with the Panel's Category I classification of single ingredient theophylline products. At that time, the agency determined that because it is essential to have a physician titrate theophylline dosages, based on individual patient measurements of theophylline serum levels, theophylline should not be available OTC as a single ingredient product. The agency reaffairms that position and classifies theophylline, as a single ingredient, in Category II. (See comment 1 above.)

5. The agency has added to § 341.76 a "Statement of identity" paragraph and a "Directions" paragraph to conform with the format of other recently published advance notices of proposed rulemaking and tentative final monographs. Inclusion of new paragraphs has necessitated a redesignation of § 341.76(a) to § 341.76(b) and § 341.76(b) to § 341.76(c). The agency is also redesignating Subpart D as Subpart C and placing the labeling sections of the monograph in Subpart C.

6. The Panel recommended five indications for bronchodilator drug products in § 341.76(a)(2) as follows:

(i) "For temporary relief of bronchial asthma."

(ii) "For symptomatic control of bronchial asthma."

(iii) "Provides temporary relief from acute symptoms of bronchial asthma."

(iv) "Relaxes tense bronchial muscles to ease breathing for asthma patients."

(v) "For temporary relief of wheezing (attacks and distress) of bronchial asthma."

The agency is concerned that none of these indications alone would provide the consumer who is suffering from bronchial asthma with a clear understanding of the relief that an OTC bronchidilator can be expected to provide. Believing that it is important for the consumer to know what to expect of a medication, the agency has developed the following indication, which is included in the tentative final monograph in § 341.76(b)(1): "For temporary relief of shortness of breath, tightness of chest, and wheezing due to bronchial asthma." This indication is being proposed for all OTC bronchodilator drug products.

Portions of the indications recommended by the Panel have been combined and revised by the agency into statements that may be included in labeling at the manufacturer's option. These statements appear in § 341.76(b)(2) in this tentative final monograph under the heading "Other Allowable Statements" as follows:

(i) "For the" (select one of the following: "temporary relief" or "symptomatic control") "of bronchial asthma."

(ii) "Eases breathing for asthma patients" (which may be followed "by reducing spasms of bronchial muscles").

The agency believes that these statements, as revised, contain information in addition to the indication that could be helpful to consumers. The statements are not required but may appear in bronchodilator drug product labeling provided they are neither placed in direct conjunction with information required to appear in the labeling nor occupy labeling space with greater prominence or conspicuousness than the required information. The agency welcomes comment on these labeling changes.

7. In § 341.76(b) (1), (2) (i), and (3) (ii) the Panel recommended use of the signal word "Caution" in a section of the labeling where the heading *"Warnings"* is also recommended. The agency notes that historically there has not been a consistent usage of the signal words "warning" and "caution" in OTC drug labeling. For example, in §§ 369.20 and 369.21 (21CFR 369.20 and 369.21), which list "warning" and "caution" statements for drugs, the signal words "warning" and "caution" are both used. In some instances either of these signal words is used to convey the same or similar precautionary information.

FDA has considered which of these signal words would be most likely to attract consumers' attention to that information describing conditions under which the drug product should not be used or its use should be discontinued. The agency concludes that the signal word "warning" is more likely to flag potential dangers so that consumers will read the information being conveyed. Therefore, FDA has determined that the signal word "warning," rather than the word "caution," will be used routinely in OTC drug labeling that is intended to alert consumers to potential safety problems. Accordingly, the signal word "Caution" has been deleted from this tentative final monograph. Also, § 341.76(b) (1), (2)(i), and (3)(ii) have been redesignated § 341.76(c) (1), (4)(i), and (5)(ii), respectively.

8. In several of the warnings and directions in its monograph, the Panel recommended the use of the word "physician". The agency is substituting the word "doctor" for "physician" in the warnings and directions in all OTC drug monographs because it believes that the word "doctor" is more commonly used and better understood by consumers. If the word "doctor" is adopted in the final monograph, the agency will use this language in other final monographs and other applicable OTC drug regulations and will propose amendments to those regulations accordingly. Public comment on this proposed change in labeling language is invited.

9. The Panel recommended the following warning (in § 341.76(b)(2)(ii))

regarding possible side effects of ephedrine-containing bronchodilator drug products: "Nervousness, tremor, sleeplessness, nausea and loss of appetite may occur." The agency believes that consumers should be advised that these reactions to ephedrine may occur in some persons, and that the labeling should include a warning to consult a doctor if these reactions persist or become worse. The agency has therefore revised this warning, which appears in § 341.76(c)(4)(ii) in the tentative final monograph. In addition, because the potential of ephedrine to cause these side effects may be increased at higher than recommended OTC doses, the agency is adding the following sentence to the directions in § 341.76(d)(1) for use of ephedrine-containing products: "Do not exceed recommended dose unless directed by a doctor."

10. The agency has revised the Panel's recommended drug interaction precaution for ephedrine containing and epinephrine containing drug products to read as follows: *"Drug interaction precaution:* Do not take this product if you are presently taking a prescription drug for high blood pressure or depression, without first consulting your doctor." The agency concludes that terms such as "antihypertensive," "antidepressant," and "monoamine oxidase inhibitor," which were previously used in this warning, may not be readily understood by all consumers. However, because antihypertensive and antidepressant drugs are widely prescribed, the agency believes it is necessary to have a warning on bronchodilators to alert consumers to avoid taking antihypertensive or antidepressant drugs simultaneously in order to avoid any adverse reactions. (See comment 7 above.) This precaution appears in § 341.76(c)(3) of the tentative final monography.

11. The agency has deleted § 341.76 (b)(2)(v) and (b)(3)(vi) of the Panel's recommended monograph. These sections provided warnings against using ephedrine preparations in children under 12 years of age and using epinephrine inhalation preparations in children under 4 years of age. The directions provided in new § 341.76(d) state clearly that a doctor should be consulted for the use of ephedrine preparations in children under 12 years of age and the use of epinephrine inhalation preparations in children under 4 years of age. The agency believes that these warnings are therefore repetitious and unnecessary.

12. The agency has moved the Panel's recommended warning in § 341.76(b)(2)(iii) and has included it in new § 341.76(c)(2). The warning states: "Do not take this product if you have heart disease, high blood pressure, thyroid disease, diabetes, or difficulty in urination due to enlargement of the prostate gland unless directed by a doctor." Although the Panel recommended this warning only for oral ephedrine preparations, a similar warning is included in the currently approved NDA labeling for epinephrine preparations and metaproterenol sulfate in metered-dose inhalation aerosol dosage forms. The agency is therefore proposing that this warning be required for oral ephedrine preparations and for epinephrine preparations and metaproterenol sulfate in metered-dose inhalation aerosol dosage forms.

13. The agency has moved part of the Panel's recommended warning in § 341.76(b)(3)(v) and has included it as part of the warning in new § 341.76(c)(4)(i). The warning previously stated: "Keep this product out the reach of children and adolescents because unsupervised access may cause abuse or possible adverse effects on the heart of excessively used." The agency believes that such a warning may encourage rather than discourage abuse. The agency has, therefore, modified the warning in § 341.76(c)(5)(i) to emphasize the possible adverse effects of overdosage and has deleted any reference to possible abuse of the drug product by children and adolescents. In addition, the agency has added the statement "The use of this product by children should be supervised by an adult" in the directions paragraph (§ 341.76(d)(2)) for epinephrine drug products to prevent possible overdosage in this age group.

The agency proposes to revoke the existing warnings for oral ephedrine preparations and epinephrine in an inhalation dosage form in § 369.20 at the time that this monograph becomes effective.

The agency has examined the economic consequences of this proposed rulemaking and has determined that it does not require either a Regulatory Impact Analysis, as specified in Executive Order 12291, or a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Public Law 96–354). Specifically, it would switch metaproterenol sulfate in a metered-dose inhalation aerosol dosage form from prescription to OTC marketing status and would require reformulation of product containing methoxyphenamine hydrochloride as a single active ingredient by placing this drug in Category II. However, methoxyphenamine hydrochloride had already been effectively removed from the marketplace by the agency's withdrawal of an approved NDA. (See the **Federal Register** of January 16, 1981; 46 FR 3983.) This proposal also reaffirms the agency's dissent from the Panel's recommendation to switch theophylline as a single ingredient from prescription to OTC status (see the **Federal Register** of December 10, 1976; 41 FR 54032), but because this dissent prevented the switch from being implemented, the OTC market will not be affected, nor will continued OTC availability of combination drug products containing theophylline be affected. Some relabeling will be required, but can be accomplished with minimal cost. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC bronchodilator drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC bronchodilator drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on bronchodilator drug products, a period of 120 days from the date of publication of this proposed rulemaking in the **Federal Register** will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has carefully considered the potential environmental effects of this proposal 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 agency's finding of no significant impact, and the evidence supporting this finding, is contained in an environmental assessment (under 21 CFR 25.31, proposed in the **Federal Register** of December 11, 1979; 44 FR 71742), which may be seen in the Dockets

Management Branch, Food and Drug Administration.

List of Subjects in 21 CFR Part 341

OTC drugs: Anticholinergics, Expectorants, Bronchodilators.

PART 341—[AMENDED]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982)), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 341 (as set forth in the tentative final monograph that was published in the **Federal Register** of July 9, 1982 (47 FR 30002)) to read as follows:

1. In Subpart A, § 341.3 is amended by adding new paragraph (c), to read as follows:

§ 341.3 Definitions.

* * * * *

(c) *Bronchodilator drug.* A drug used to overcome spasms that cause narrowing of the bronchial air tubes, such as in the symptomatic treatment of the wheezing and shortness of breath of asthma.

2. By adding Subpart B, consisting at this time of § 341.16, to read as follows:

Subpart B—Active Ingredients

§ 341.16 Bronchodilator active ingredients.

The active ingredients of the product consist of any of the following when used within the dosage limits established for each ingredients:

(a) Ephedrine.
(b) Ephedrine hydrochloride.
(c) Ephedrine sulfate.
(d) Epinephrine.
(e) Epinephrine bitartrate.
(f) Epinephrine hydrochloride (racemic).
(g) Metaproterenol sulfate.
(h) Racephedrine hydrochloride.

3. In Subpart C, new §§ 341.76 and 341.90 are added, to read as follows:

§ 341.76 Labeling of bronchodilator drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "bronchodilator."

(b) *Indications.* (1) The labeling of the product contains the following statement under the heading "Indications": "For temporary relief of shortness of breath, tightness of chest, and wheezing due to bronchial asthma."

(2) *Other allowable statements.* In addition to the required in formation identified in paragraph (1) above, the labeling of the product may contain any of the following statements provided such statements are neither placed in direct conjunction with information required to appear in the labeling nor occupy labeling space with greater prominence or conspicuousness than the required information.

(i) "For the" (select one of the following: "temporary relief" or "symptomatic control") "of bronchial asthma."

(ii) "Eases breathing for asthma patients" (which may be followed by: "by reducing spasms of bronchial muscles").

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) "Do not take this product unless a diagnosis of asthma has been made by a doctor."

(2) "Do not take this product if you have heart disease, high blood pressure, thyroid disease, diabetes, or difficulty in urination due to enlargement of the prostate gland unless directed by a doctor."

(3) *"Drug Interaction Precaution.* Do not take this product if you are presently taking a prescription drug for high blood pressure or depression, without first consulting your doctor."

(4) *For products containing ephedrine, ephedrine hydrochloride, ephedrine sulfate, or racephedrine hydrochloride identified in § 341.16(a), (b), (c), and (h).* (i) "Do not continue to take this product, but seek medical assistance immediately if symptoms are not relieved within 1 hour or become worse."

(ii) "Some users of this product may experience nervousness, tremor, sleeplessness, nausea, and loss of appetite. If these symptoms persist or become worse, consult your doctor."

(5) *For products containing epinephrine, epinephrine bitartrate, epinephrine hydrochloride (racemic), or metaproterenol sulfate identified in § 341.16(d), (e), (f), and (g).* (i) "Do not take this product at higher than recommended doses unless directed by a doctor. Excessive use may cause nervousness and rapid heart beat, and, possibly, adverse effects on the heart."

(ii) "Do not continue to take this product, but seek medical assistance immediately if symptoms are not relieved within 20 minutes or become worse."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

(1) *For products containing ephedrine, ephedrine hydrochloride, ephedrine sulfate, or racephedrine hydrochloride identified in § 341.16(a), (b), (c), and (h)* Adults: oral dosage is 12.5 to 25 milligrams every 4 hours, not to exceed 150 milligrams in 24 hours, or as directed by a doctor. Do not exceed recommended dose unless directed by a doctor. Children under 12 years of age: consult a doctor.

(2) *For product containing epinephrine, epinephrine bitartrate, and epinephrine hydrochloride (racemic) identified in § 341.16(d), (e), and (f)*—(i) *For use in a pressurized metered-dose aerosol container.* Each inhalation contains the equivalent of 0.16 to 0.25 milligram of epinephrine base.

(*a*) Inhalation dosage for adults and children 4 years of age and older: start with one inhalation, then wait at least 1 minute. If not relieved, use once more. Do not use again for at least 3 hours. The use of this product by children should be supervised by an adult. Children under 4 years of age: consult a doctor.

(b) The labeling must include directions for the proper use of the inhaler and for the proper care and cleaning of the mouthpiece. The directions must be clear, direct, and provide the consumer with sufficient information for the safe and effective use of the product.

(ii) *For use in a hand-held rubber bulb nebulizer.* The ingredient is used in an aqueous solution at a concentration equivalent to 1 percent epinephrine base. Inhalation dosage for adults and children 4 years of age and older: 1 to 3 inhalations not more often than every 3 hours. The use of this product by children should be supervised by an adult. Children under 4 years of age: consult a doctor.

(3) *For products containing metaproterenol sulfate identified in § 341.16(g) in a pressurized metered-dose aerosol container.* Each inhalation contains 0.65 milligram metaproterenol sulfate.

(i) Inhalation dosage for adults: start with one inhalation, then wait 2 minutes. If not relieved, inhalation can be repeated, then wait another 2 minutes. If still not relieved, inhalation can be repeated one more time. Do not use again for at least 3 hours. Do not use more than 12 inhalations in 24 hours unless directed by a doctor. Children under 12 years of age: consult a doctor.

(ii) The labeling must include directions for the proper use of the inhaler and for the proper care and cleaning of the mouthpiece. The directions must be clear, direct, and provide the consumer with sufficient information for the safe and effective use of the product.

§ 341.90 Professional labeling.

The labeling of the product provided to health professionals (but not to the general public) may contain the following additional dosage information for products containing the active ingredients identified below:

(a) *For products containing ephedrine, ephedrine hydrochloride, ephedrine sulfate, or racephedrine hydrochloride identified in § 341.16 (a), (b), (c), and (h):* Children 6 to under 12 years of age: oral dosage is 6.25 to 12.5 milligrams every 4 hours, not to exceed 75 milligrams in 24 hours. Children 2 to under 6 years of age: oral dosage is 0.3 to 0.5 milligram per kilogram of body weight every 4 hours, not to exceed 2 milligrams per kilogram of body weight in 24 hours.

(b) [Reserved]

Interested persons may, on or before December 27, 1982, submit to the Dockets Management Branch (HFA-305,), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before February 23, 1983. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register**.

Interested persons, on or before October 26, 1983, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before December 26, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA-305) (address above). Received data and comments may also be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on December 26, 1983. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register** unless the Commissioner finds good cause has been shown that warrants earlier consideration.

Dated: July 20, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Dated: September 27, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

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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). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Last Listing October 22, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 6142 / Pub. L. 97-358 Surplus Agricultural Commodities Disposal Act of 1982. (Oct. 21, 1982; 96 Stat. 1714) Price: $1.75.