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Highlights

3071 **Amendments to the Manual for Courts-Martial, United States, 1969 (Revised Edition)** Executive order.

3091 **Banking** FHLBB issues regulations on amortization periods for premiums, discounts and credits, and treatment of gains and losses on sale of real estate.

3128 **Truth in Lending** FTC proposes enforcement policy statement.

3328 **Education** ED issues regulations on disaster assistance to local educational agencies. (Part IV of this issue)

3099 **Supplemental Security Income** HHS/SSA revises eligibility rules.

3280 **Medical Devices** HHS/FDA proposes rules on classification of all ear, nose, and throat devices. (Part III of this issue)

3130 **Securities** SEC proposes to amend procedures on processing post-effective amendments filed by separate accounts of insurance companies.

3098 SEC amends regulations on automatic effectiveness of post-effective amendments filed by investment companies.

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Presidential Documents

Title 3—

The President

Executive Order 12340 of January 20, 1982

Amendments to the Manual for Courts-Martial, United States, 1969 (Revised Edition)

By the authority vested in me as President by the Constitution of the United States and by Chapter 47 of Title 10 of the United States Code (the Uniform Code of Military Justice), in order to prescribe amendments to the Manual for Courts-Martial, United States, 1969 (Revised edition), prescribed by Executive Order No. 11476, as amended by Executive Order No. 11835, Executive Order No. 12018, Executive Order No. 12198, Executive Order No. 12233, Executive Order No. 12306, and Executive Order No. 12315, it is hereby ordered as follows:

Section 1. The fourth sentence of the second paragraph of paragraph 6*b* of the Manual for Courts-Martial, United States, 1969 (Revised edition) is amended by inserting the word "duty" before the word "list".

Sec. 2. Paragraph 18*b*(3) of the said Manual for Courts-Martial is amended to read as follows:

"(3) No person while being held for trial may be subjected to punishment or penalty other than restraint upon the charges pending against him, nor shall the restraint imposed upon him be any more rigorous than the circumstances require to ensure his presence, but he may be subjected to minor punishment during that period for infractions of discipline (*see* Article 13). Minor punishment for violation of the disciplinary rules of the place of confinement may be imposed under regulations prescribed by the Secretary concerned. *See* 68*g* concerning the effect of punishments for minor offenses upon subsequent courts-martial. Prisoners being held for trial shall not be required to undergo punitive duty hours or training, perform punitive labor, or wear special uniforms prescribed only for post-trial prisoners. Prisoners shall be afforded facilities, treatment, and training under regulations prescribed by the Secretary concerned.".

Sec. 3. Paragraph 34*c* of the said Manual for Courts-Martial is amended to read as follows:

"*c. Counsel.* (1) *For the accused.* Counsel certified under Article 27(b) will be detailed to represent the accused at the investigation. The accused has the right to be represented at an Article 32 investigation by civilian counsel if provided by him, and either by the military counsel detailed under Article 32(b) or military counsel of his own selection if that counsel is reasonably available. *See* paragraphs 46*d* and 48*b* concerning availability of persons requested as individual military counsel, the effect of such request on the duties of the detailed defense counsel, and the procedures for acting on such requests. The investigating officer will not review any denial of a request for individual military counsel.

"The investigation should be conducted promptly (*see* Art. 33 and paragraph 30*i*), while the events are fresh in the minds of witnesses. The investigation will not proceed in the absence of counsel unless the accused expressly waives counsel's presence. An investigation will not be delayed if the accused is unable to obtain civilian counsel provided by him within a reasonable time after having been given an opportunity to obtain that counsel.

"(2) *For the government.* The government may be represented at the investigation by counsel designated by the officer who directed the investigation.".

Sec. 4. The second paragraph of paragraph 46*d* of the said Manual for Courts-Martial is amended to read as follows:

"When charges are referred to a court for trial, the defense counsel will inform the accused immediately that he has been detailed to defend him at the trial, explain his general duties, and advise him of his right to select individual counsel, civilian or military, of his own choice pursuant to Article 38(b) and the effect of such a request. If the accused expresses a desire to be represented by individual military counsel, the defense counsel will immediately report the fact to the convening authority, through the trial counsel. Unless the accused otherwise desires, the defense counsel will undertake the immediate preparation of the defense without waiting for the detail or retention of any individual counsel. If the accused is represented by military counsel of his own selection, detailed defense counsel normally shall be excused. The convening authority, in his sole discretion, may approve a request from the accused that detailed defense counsel act as associate counsel. Such requests shall be considered in light of the general statutory policy that the accused is not entitled to be represented by more than one military counsel. Article 38(b)(6). Among the factors that may be considered in the exercise of discretion are the seriousness of the case, retention of civilian defense counsel, complexity of legal or factual issues, and the detail of additional trial counsel. The action of the convening authority on such a request is subject to review only for abuse of discretion. The military judge may not dismiss the charges or otherwise effectively prevent further proceedings based on this issue. However, the military judge may grant reasonable continuances pending action on the request for associate counsel. If the request for assignment of detailed defense counsel as associate counsel is denied, and if the accused so requests, the military judge shall ensure that a record of that matter is included in the record of trial, and may make findings as to any disputed facts. The trial counsel may request a continuance to inform the convening authority of these findings.".

Sec. 5. The first paragraph of paragraph 48*a* of the said Manual for Courts-Martial is amended to read as follows:

"See Article 38(b). The accused has the right to be represented in his defense before a general or special court-martial by civilian counsel if provided by him, and either by the military counsel detailed under Article 27 or military counsel of his own selection if reasonably available. The accused is not entitled to be represented by more than one military counsel. The convening authority, in his sole discretion, may detail associate defense counsel. *See* paragraphs 46*d* and 47. If the accused is represented by civilian counsel, military counsel provided under Article 38(b) shall act as associate counsel unless excused at the request of the accused. Civilian counsel will not be provided at the expense of the United States.".

Sec. 6. Paragraph 48*b* of the said Manual for Courts-Martial is amended to read as follows:

"48*b.* Individual Military Counsel

"(1) *General. See* Article 38(b). The accused may request individual military counsel of his own selection and be represented by such counsel if reasonably available. Subject to the limitations in subparagraph (2), the Secretary concerned will define "reasonably available." Subject to the general guidance in subparagraph (3), the Secretary concerned will establish the procedure for determining whether a requested person is "reasonably available" to act as individual military counsel.

"(2) *Persons not "reasonably available."* While so assigned, the following persons are unavailable to serve as individual military counsel because of the nature of their duties or positions: a flag or general officer; a trial or appellate military judge; a trial counsel; an appellate defense or government counsel; a principal legal advisor to a command, organization, or agency and his principal assistant; an instructor or student at a service school or academy; a

student at a college or university; or a member of the staff of the Judge Advocate General of the Army, Navy, or Air Force, the Chief Counsel of the Coast Guard, or the Director, Judge Advocate Division, Headquarters, Marine Corps. These are in addition to any persons the Secretary concerned may determine to be unavailable to act as individual military counsel because of the nature or responsibilities of their assignments, geographic considerations, exigent circumstances, or military necessity. Further, persons from an armed force different from that of the accused are unavailable to serve as individual military counsel unless they are located within 100 miles of where the general or special court-martial or Article 32 investigation is to be held and they are not otherwise unavailable. Under circumstances prescribed by the Secretary concerned, exceptions may be made to the foregoing prohibitions when merited by the existence of an attorney-client relationship between the accused and the requested counsel regarding matters relating to a charge in question. However, if the attorney-client relationship arose solely because the counsel represented the accused on review under Article 70, this exception does not apply.

"(3) *Procedure.* The request for an individual military counsel should be made by the accused or his detailed defense counsel to the convening authority, through the trial counsel. If the person is among those listed as unavailable under subparagraph (2) or under regulations of the Secretary concerned, the convening authority shall notify the accused that the request is denied, unless the request asserts that there is an existing attorney-client relationship regarding a charge in question or that the person requested will not, at the time of trial, be among those so listed as unavailable. If the accused's request makes such a claim, or if the person requested is not among those listed as unavailable under subparagraph (2) or under regulations of the Secretary concerned, the convening authority shall forward the request to the commanding officer or head of the organization, activity, or agency to which the person requested is assigned. That authority will make an administrative determination as to the availability of the requested person in accordance with the procedure established by the Secretary concerned. This determination is a matter within the sole discretion of that authority. An adverse determination may be appealed by the accused through that authority to the next higher commanding officer or level of supervision, but appeals may not be made which require action at the departmental or higher level.

"(4) *Judicial review of a denial of request.* If a request for a person to act as individual military counsel is denied, which denial is upheld upon administrative appeal (if available under paragraph 48*b*(3)) in command channels, and if the accused so requests, the military judge shall ensure that a record of that matter is included in the record of trial, and may make findings as to any disputed facts. The trial counsel may request a continuance to inform the convening authority of those findings. The military judge may not dismiss the charges or otherwise effectively prevent further proceedings based on this issue. However, the military judge may grant reasonable continuances until the requested military counsel can be made available if the unavailability results form temporary conditions or if the decision of nonavailability is in the process of review in command channels.".

Sec. 7. Paragraph 61*f*(3) of the said Manual for Courts-Martial is amended by deleting the last sentence thereof.

Sec. 8. Paragraph 100*c*(1)(a) of the said Manual for Courts-Martial is amended to read as follows:

"(a) If the sentence, as affirmed by the Court of Military Review, extends to dismissal, dishonorable or bad-conduct discharge, or confinement for one year of more, the Judge Advocate General, in his discretion, may take the action prescribed in 100*b*(2) above. Otherwise, he will transmit a copy of the initial court-martial order (90*b*(1)) and any supplementary orders (90*b*(2)) and two copies of the decision of the Court of Military Review, with such instructions as to future action as may be appropriate (Art. 66(e)) and with instructions to

cause a copy of the decision to be served upon the accused, to the officer immediately exercising general court-martial jurisdiction over the accused. If the officer who exercises immediate general court-martial jurisdiction over the accused is not the officer who convened the court, or his successor in command, the Judge Advocate General shall also transmit a copy of the decision of the Court of Military Review to the convening authority who convened the court for his information.

"The accused may be notified personally of the decision of the Court of Military Review, or a copy of the decision of the Court of Military Review may be sent, after service on appellate counsel of record of the accused (if any), by first class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his official service record. The copy of the decision of the Court of Military Review which is provided the accused will bear an indorsement notifying the accused of the right to petition the Court of Military Appeals for review with respect to any matter of law within 60 days from the time the accused was in fact notified or the mailed copy of the decision was postmarked, whichever is earlier. This indorsement will also inform the accused that any petition for review may be forwarded through the officer immediately exercising general court-martial jurisdiction over the accused and through the appropriate Judge Advocate General or filed directly with the Court of Military Appeals. The receipt of the accused for the copy of the decision of the Court of Military Review, a certificate of service upon him, or the postal receipt for certified mail will be transmitted in duplicate by expeditious means to the appropriate Judge Advocate General. If the accused is personally served the receipt or certificate of service will show the date of service. The Judge Advocate General will forward one copy of the receipt, certificate, or postal receipt to the Clerk of the Court of Military Appeals when required by the court.

"The accused has 60 days from the earlier of the date on which the accused is notified of the decision of the Court of Military Review or the date on which a copy of that decision, after being served on appellate counsel of record (if any), is deposited in the United States mails for delivery by first class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his official service record to petition the Court of Military Appeals for review. The placing of a petition for review in proper military channels divests the Court of Military Review of jurisdiction over the case, and jurisdiction is thereby conferred on the Court of Military Appeals. If the accused does not so petition, the convening authority, or the officer immediately exercising general court-martial jurisdiction over the accused, or the Secretary concerned (Art. 60) may order any sentence which, as affirmed by the Court of Military Review, extends to dishonorable or bad-conduct discharge or confinement for one year or more into execution or take other authorized appropriate action (Art. 74(a)) as the circumstances may warrant.".

Sec. 9. The last sentence of the third paragraph of paragraph 102*b* of the said Manual for Courts-Martial is amended by striking the "*j*" in "48*j*(3)" and inserting "*k*" in place thereof.

Sec. 10. Paragraph 110A of the said Manual for Courts-Martial is amended by inserting the following paragraph after the caption and before the existing first paragraph:

"An accused who elects to file for review by The Judge Advocate General under Article 69 must do so before October 1, 1983, or before the last day within the two-year period beginning on the date the sentence is approved by the convening authority or, in a special court-martial case which requires action under Article 65(b) by the officer exercising general court-martial jurisdiction, whichever is later, unless the accused establishes good cause for failure to file within that time."

Sec. 11. The second paragraph of paragraph 125 of the said Manual for Courts-Martial is amended to read as follows:

"No member of the armed forces may be placed in confinement in immediate association with enemy prisoners or other foreign nationals not members of the armed forces (Article 12). No person while being held for trial may be subjected to punishment or penalty other than restraint upon the charges pending against him. *See* 18*b*(3).".

Sec. 12. These amendments should take effect on January 20, 1982. These amendments apply to all courts-martial processes taken on or after that date, except that the amendment of paragraph 34*c* shall apply only to investigations begun on or after January 20, 1982; the amendments of paragraphs 46*d*, 48, and 61*f* shall apply only to courts-martial in which all charges are referred to trial on or after January 20, 1982; and the amendment of paragraph 100 shall apply only to cases in which the opinion of the Court of Military Review is dated on or after January 20, 1982.

Sec. 13. The Secretary of Defense, on behalf of the President, shall transmit a copy of this Order to the Congress of the United States in accord with Section 836 of Title 10 of the United States Code.

Ronald Reagan

THE WHITE HOUSE,
January 20, 1982.

[FR Doc. 82-1755
Filed 1-20-82; 4:05 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 15
Friday, January 22, 1982

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 293

Personnel Records; Establishment of an Employee Performance File (EPF) System

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to announce adoption of final rules concerning the establishment of an Employee Performance File (EPF) system. This system will encompass performance-related records maintained by agencies in servicing personnel or other designated offices, by supervisors/managers in work folders, and by Senior Executive Service (SES) Performance Review Boards or administrative offices thereof.

EFFECTIVE DATE: February 22, 1982.

FOR FURTHER INFORMATION CONTACT: William H. Lynch, Records Management Branch, Work Force Information Division, (202) 254–9790/9793.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published a notice of proposed rulemaking concerning the EPF system on January 27, 1981 (46 FR 8529). That notice provided for a 60 day comment period ending on March 30, 1981. During the comment period, the Office received comments from 25 agencies, 3 labor organizations, and 4 individuals. Some comments made specific recommendations for changes, and some either commented that only the retention schedule needed changing or that the regulations were acceptable as written. Among those suggesting changes, several also commented on common difficulties with the original proposal. The Office believes, therefore, that an analysis of these common, general issues (rather than each specific comment or recommendation) is appropriate and, in most cases, has modified the regulations to include the specific recommendations. These areas of concern can be identified as: (1) the need for regulations governing performance records; (2) resource burden on agencies; (3) how Privacy Act concerns are better met under these regulations; (4) the contents of the system; (5) the retention schedule of records; (6) the location of records; and (7) implementation by agencies.

It is the Office's opinion that queries as to the need for regulations were closely related to the other concerns—so closely that, if the other concerns are dealt with, the Office believes that those commenting, along with the many Departments and agencies that did not comment, would recognize the need for regulations. Further, the Office's role as a central oversight agency has long been exercised by use of regulations and, since the passage of the Privacy Act, the Office, with Office of Management and Budget endorsement, has issued Privacy Act regulations for those Government-wide personnel records which agencies maintain. Thus, issuing these regulations (as revised based on comments received) is fully appropriate and consistent with Office procedures. As noted below, the Office believes that the revised final rules successfully address those agency concerns expressed in items (2) through (7) above.

With regard to the recordkeeping burden issues that agencies raised, it is important to recognize that the regulations *do not* require the creation of any additional records beyond those in existence or required to successfully implement an agency's Office-approved performance appraisal plan. The Office's position regarding the changes in performance appraisal required by the Civil Service Reform Act (CSRA) has been one of consistent support and belief that proper implementation will result in successful implementation. It is the Office's position that proper implementation requires a commitment by supervisors/managers (particularly first line supervisor/managers) to these new procedures. Further, by providing supervisors/managers (rating officials) with clear guidance (through training sessions and in written internal agency issuances) the chances of getting this required commitment are enhanced. It is the Office's position that rating officials will be better able to successfully implement an agency's performance appraisal procedures (both under the CSRA and under plans established by agencies not subject to the CSRA) if they have the records they need readily available to them, if they have written guidance on what records they need to support actions, and if they know that these instructions have been also provided to employees and employee representatives as well as adopted by higher level management. Thus, while the final regulations greatly diminish the resource burden agencies commented on, development of internal agency guidance will require some resources. However, any additional resources required by these regulations will be minimal and consolidated into an agency's developmental process regarding implementation of its overall performance appraisal plan. The Office believes that sound recordkeeping procedures are an important part of successfully implemented performance appraisal systems.

Examples of how the final regulations address the question of burden include: (1) minimize or eliminate the cost of folders by permitting the use of envelopes and, where an agency's automated or microform capabilities are such that agency needs are met using these media, eliminating any requirement for maintenance of a paper EPF; (2) removing performance-related material from Official Personnel Folders (OPF) will make them narrower, freeing up some filing space which, along with permitting agencies to retain as little as only the annual summary appraisal form in the EPF folder or envelope should result in agencies being able to implement this program without undue need for additional cabinet space—most rating officials maintain work files now and would continue to do so without these regulations in order to implement agency plans; (3) training of rating and reviewing officials is already required and few additional resources would be needed to include training in the EPF system. Further, agencies not maintaining a paper EPF will need very minimal training of filing clerks, while those maintaining a paper EPF (including those where all performance-related records are maintained in the EPF) will need only to train filing clerks

to recognize performance-related records to be filed in the EPF (generally only once a year) which can be done when training filing clerks to recognize the forms that will undoubtedly be created to implement agency performance appraisal plans; and (4) by linking the development of the required agency internal written guidance regarding this system to development of the agency performance appraisal plan and the already mandated (5 CFR 430) periodic review of those plans, the burden of writing and revising the guidelines is greatly minimized.

The comments concerning Privacy Act issues centered on: (1) duplicating records, i.e., in the EPF and in work folders, does not enhance protection of personal privacy; (2) that these records already are maintained in the OPF so as to protect personal privacy; and (3) permitting these records to be maintained anywhere except in the personnel office increases the risk of violations of the Act and of individual privacy rights. The Office disagrees with all of these statements for the following reasons.

First, an agency may elect to keep only the summary appraisal form in the EPF and all other documents in work folders, thus keeping duplication to a minimum. Further, the Office believes that the Privacy Act requirement to keep only relevent and necessary records does not preclude their retention at two or even three places (as is now the case with manual and automated personnel record systems); in fact, these records in many cases are already being retained in more than one location.

Second, the OPF has long been used to retain (generally on the left hand or temporary side) documents that are not needed to protect Governmental interests or to protect employee rights, privileges, or benefits, but are necessary to an agency's effective personnel management practices and policies or to provide an "audit trail" for Office or other oversight agency review. However, with the passage of the Privacy Act and its restrictions on retention, use, and disclosure of records along with the necessity for the Office to give serious attention to the feasibility of putting the OPFs on microfiche that exists with today's technology, comes the responsibility for the Office to carefully examine the maintenance procedures concerning the OPF. The Office has determined that as an initial step in bringing the OPF into more precise compliance with the letter and spirit of the Privacy Act, while at the same time eliminating one impediment to an economical and feasible move to the OPF on microfiche, removal of performance-related records from the OPF is appropriate.

Third, removal of such documents from the OPF necessitates placing them somewhere—in another paper file, in an agency automated system, or, if an agency chooses, microfilming them. The revised regulations accompanied by Federal Personnel Manual (FPM) guidance and the inclusion of these records into an Office-controlled Government-wide Privacy Act system of records should eliminate concerns that keeping these records in offices other than personnel offices will result in greater violations of personal privacy. These regulations require written agency descriptions of the maintenance of such records for all parties to see and comment on, while requiring the Personnel Director or other designated agency official to be responsible for implementation. The FPM instructions will provide the necessary guidance for agency staff working with such records that will also provide for protection of individual privacy concerns. The placing of such records under one Government-wide Privacy Act system of records, an approach consistently endorsed by the Office of Management and Budget in its Privacy Act oversight role, ensures Privacy Act coverage of work folders that already exist or will properly come into existence as agencies implement performance appraisal plans. The Office, in FPM Supplement 293–31, Subchapter 8, has given agencies blanket approval to maintain such folders at sites "geographically remote" from the OPF and has never refused an agency request to have such folders in the same location (even the same building) as where the OPF is maintained. To forbid work folders entirely would hamper effective supervision and management; thus, it is necessary to recognize their worth and necessity, as these regulations do, while at the same time, protecting individual privacy by making them part of a Privacy Act system of records accompanied by agency written descriptions of the contents. As part of a Government-wide system of records, employees, their representatives, and agency officials who have a need for the information in these files are guaranteed access to all relevant information.

With regard to the contents of the EPF and work folders, some of those commenting thought that the proposed regulations mandated a specific list of records for filing in the EPF. This was not the Office's intention and the final regulations reflect this. It is the Office's intention, however, that to the greatest extent possible an agency will describe for its EPF system all the records likely to be needed by the agency and maintained so as to be retrieved by the employee's name or unique identifier (in both an EPF or work folder), where and for how long such records are to be retained, and other intructions (e.g., regarding Freedom of Information/ Privacy Act matters) which the agency deems appropriate.

Regarding the retention schedule proposed, those commenting almost unanimously requested something less than five years for retention of non-SES performance records. The Office agrees with these comments and in the final regulation has reduced the retention schedule to three years for summary appraisals and provides for agencies to determine the retention schedule for supporting documentation. Records superseded sooner than three years, e.g., through an administrative or judicial proceeding, or pertaining to a former employee, need not be retained for the three years; rather, the record shall be destroyed in the former case and in the latter case the agencies shall determine the retention schedule. Retention of records beyond an agency-prescribed retention schedule for use by agencies in making statistical analysis of performance plans is permitted provided the records are not used in decisions affecting the employee after the prescribed destruction date. Records required to be destroyed (no matter the form of the record) by the Civil Service Reform Act must be destroyed.

Many comments questioned the need for retaining any performance-related records in the servicing personnel office and that requiring an EPF to be so retained was unnecessary. In short, these comments indicated that such records are used primarily by rating officials and, in many cases, are not needed by the personnel office. The Office concurs and, therefore, the final regulation provides greater flexibility as to where the EPF is filed. Further, several comments indicated that agency needs for such records, beyond those of the rating official, can be met by automating performance-related records. The Office has no reason to question these comments and has revised the final regulations further by eliminating any need to have a paper EPF for each employee. This means that any agency having the capability to do so may allow for a manual file maintained by the rating official (or other designated office) while retaining some or all of these records in computers or on microfiches.

Another comment made by several agencies was that they lacked resources to immediately implement the regulations, i.e., to develop written internal agency guidance. The final regulation links implementation to the development (including periodic reviews) of performance plans otherwise required by the Civil Service Reform Act. This allows agencies to implement and revise their written instructions required by these regulations over time. Additionally, the Office intends to issue FPM instructions that will provide for removal of these documents from existing OPFs when that folder is needed for some other purpose. Thus, there is no necessity to expend resources in any immediate purge of performance-related material from OPFs.

Several specific comments concerned the list of performance-related records in the proposed regulations (5 CFR 293.403) and expressed concern that the list was either too broad, too narrow, unclear, or unnecessary. The Office's intention was not to provide a definitive list but to exemplify those documents that could be included in an agency identification of performance-related records in its system. While the final regulation makes it clear that the agency shall decide what records are part of the system, the Office believes that most agencies utilize these exemplified records in performance-related matters and this belief is confirmed in that most comments received raised no concern regarding the list. The Office will issue a more definitive list of types of performance records after consultation with agencies. Retaining this list in the final regulations also works toward encompassing in the system all the documents agencies retain in individual employee files concerning performance-related matters. Of course, if an agency were to retain any of these documents in such a manner that they are not a system of records within the meaning of the Privacy Act, then they would not be considered part of the OPM Government-wide system.

The inclusion in this list of those documents used to recommend/request a personnel action, when the action was not finally effected, also caused some concern. The Office did not intend that a Standard Form 52 now being filed in the OPF, when the requested action is effected, no longer be filed in the OPF. Rather, our intent was that, where the action was not effected, or where memorandums are used to request a higher level authority to initiate requests for personnel actions and the action sought is or is not effected, such documents could be included in this system (as they probably are since it is common practice for the initiator of the request, i.e., the rating official, to retain a copy). The same intent exists with regard to training: requests for training are likely to be retained by the requester in the work folder. The regulations merely identify that the OPF shall continue to contain documentation of appropriate completed training. Requests for or documents about completed training that are not appropriate for inclusion in an OPF (e.g., completion of or attendance at a training course of less than 8 hours) could be retained in the EPF system (as they probably are since rating officials would likely retain copies in the work folder).

Several comments expressed a concern that the EPF itself was a "second"OPF. This is not the intention of these regulations and except for any Outstanding or Unsatisfactory evaluations that may have previously been filed there, the right or permanent side of the OPF is not being affected by this regulation. It is the Office's intention to remove from the left or temporary side of the OPF all documents that pertain to performance (except for an SF–52 or equivalent document that supports a personnel action that is based on performance when the action has been effected). Further, since copies of these removed documents are generally also kept by rating officials in work folders and/or in administrative offices, in most cases they need not also be retained in the office maintaining the OPF. However, in order to accommodate agencies where all employee records are retained in one or just a few offices, in the OPF, the regulation provides for the EPF folder or envelope. Where there is widespread use of administrative office files and work folders in an agency, the Office sees little need for the EPF being retained in the same office as the OPF and, if the agency so wishes, an automated or microfiche EPF along with the work folder may be all that is necessary in meeting agency needs. In short, in removing this material from the OPF, an agency will then retain the material in an EPF in the same office, in another designated office, in computers or on microfiche, along with work folders (if the agency permits or requires their use) and will provide for a written description of the agency system and its contents.

Some comments objected to permitting inclusion of some duplicate OPF right side data in the EPF system, e.g., a copy of an employee's application or of one or more personnel action forms. The Office sees no problem with permitting this under this EPF system because only agency officials can best judge what information a rating official or administrative officer needs to have readily available. The Office believes this to be a common practice, especially among the larger agencies and departments, and is convinced that requiring agencies to identify when and to what extent they are doing this, thus making the records part of the EPF Government-wide Privacy Act system of records, will help to ensure protection of individual privacy.

Agencies now utilizing work folders under provisions of FPM Supplement 293–31, i.e., with written authorization from the Office (or from the previous Civil Service Commission) to have them in the same geographic location as the OPF, or geographically remote from the OPF, may continue to do so under these regulations. However, the agency is required to describe the contents of such folders as they implement the agency's performance appraisal plan and, since these folders now come under the umbrella of an Office Government-wide Privacy Act system of records, agencies shall discontinue or modify any internal agency system covering only these folders or including them among other records. This latter action is required by Office Privacy Act regulations at 5 CFR 297.403(b).

The Office believes that these rules are appropriate and necessary to the successful implementation of agency performance appraisal procedures and to thus meet the intent of the Civil Service Reform Act while at the same time ensuring full compliance with the Privacy Act throughout agencies and departments in the easiest manner, i.e., by establishing one Government-wide system of EPF records. Further, the revisions made in the final regulations have addressed the major concerns expressed in comments received.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-

based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 293—PERSONNEL RECORDS

Accordingly, 5 CFR Part 293 is amended by adding Subpart D, Employee Performance File System Records, to read as follows:

Subpart D—Employee Performance File System Records

Sec.

293.401 Applicability of regulations.
293.402 Establishment of separate employee performance record system.
293.403 Contents of employee performance files.
293.404 Retention schedule.
293.405 Disposition of records.
293.406 Disclosure of records.

Authority: 5 U.S.C. 552a and 5 U.S.C. 4305 and 4315; E.O. 12107 (December 28, 1978); 5 U.S.C. 1103, 1104, and 1302; 3 CFR 1954–1958 Compilation; 5 CFR 7.2; E.O. 9830, 3 CFR 1943–1948 Compilation.

Subpart D—Employee Performance File System Records

§ 293.401 Applicability of regulations.

This subpart applies to Executive agencies as defined in sections 105, 3132(a)(1) and 4301(1) of title 5, U.S. Code, including Military Departments (but not non-appropriated fund employees) as defined in section 102 of title 5, U.S. Code, and independent establishments as defined in section 104 of title 5, U.S. Code. Within those agencies, the requirements of this subpart apply to all employees occupying positions subject to civil service rules and regulations, including Senior Executive Service positions as defined in 5 U.S.C. 3132(a)(2).

§ 293.402 Establishment of separate employee performance record system.

(a) Performance appraisals and related documents may be retained in the Official Personnel Folder (OPF) only when the agency prescribes the use of a separate envelope, temporarily located in the OPF and removed whenever the OPF (except as required in § 293.404(b)) is transferred to another agency or to records storage. No duplicate copy of any such document shall be retained on the left (temporary) or right (permanent) side of the OPF.

(b)(1) Each agency having employees occupying a position described in § 293.401, and for each such employee, shall provide for maintenance of performance-related records in this Employee Performance File system. It may elect to retain records in a separate file that is located in the same office with the Offical Personnel Folder, or in an envelope kept in the Official Personnel Folder itself; if the agency determines that a separate Employee Performance File (EPF) is cost-effective, such a file may be located in another designated agency office (as specified in the agency's written performance appraisal plan documentation) including with supervisors/managers (hereinafter referred to as rating officials) or with Performance Review Boards. In these files shall be kept the copy of record pertaining to employee performance and any other supporting documents that the agency may prescribe as necessary for agency officials in performance of their duties.

(2) Agencies may also prescribe retention of such records in an automated or microform mode as well as maintaining them as paper records in offices where they are needed. All such records described by the agency as being performance-related and necessary to official performance of duty, whether located in only one office or in several offices (e.g., with the rating official and also with the administrative office or in the agency's automated personnel record system) are considered to be part of the Employee Performance File system.

(3) The records maintained in this file system are part of a Privacy Act system of records the Office has established, and it is the agency's responsibility to ensure that such documents are retained in accordance with the Office's Privacy Act regulations in Part 297 of this chapter and the agency's instructions implementing those regulations and in accordance with the retention schedule for performance documents stipulated in § 293.404. The agency performance appraisal plan or implementing instructions shall explicitly include this agency responsibility.

(c)(1) Agencies shall provide their employees access to their performance files (automated and manual). Such a request for access shall be processed in accordance with established agency procedures, consistent with Office of Personnel Management regulations regarding access to records contained in Part 297 of this chapter. Such access shall be provided to the employee or to the employee's designated representative, and such records may also be disclosed to other officials of the agency who have a need for the documents in the performance of their duties.

(2) All other requests for performance documents made to agency officials (e.g., Freedom of Information Act requests or requests made under the "routine use" provisions of the Privacy Act) shall be processed by the responsible agency official in accordance with agency procedures consistent with Office of Personnel Management regulations regarding disclosures of such records contained in Parts 293 and 297 of this chapter.

(3) Privacy Act requests for amendment of records maintained in this system shall be processed by the responsible agency official in accordance with agency procedures consistent with Office of Personnel Management regulations regarding amendment of records contained in Part 297 of this chapter.

(d) Agencies maintaining the EPF in an automated or microform system shall issue instructions that contain necessary procedures to ensure that the same requirements as in paragraph (c) of this section, relating to all manual records, are met.

§ 293.403 Contents of employee performance files.

(a) A decision on what constitutes a performance-related document within the meaning of this subpart rests with the agency. Agency implementing instructions, for both incumbents of the Senior Executive Service and other positions, shall provide specific written guidance of the description of what constitutes the agency's official performance-related forms and documents.

(b) Agency implementing instructions describing such records shall indicate where and for how long they are retained and how and when they are to be destroyed. Such instructions shall also describe what records are considered to be performance-related (as specifically as is feasible) and shall include all performance-related records maintained as a system of records within the meaning of the Privacy Act. Such records would generally include:

(1) Any form or other document which records the performance appraisal, including appraisals leading to merit pay determinations.

(2) Any form or other document used by rating officials to recommend a personnel action affecting an employee (including a request for personnel action document, but only when the action is

not effected) when the basis for the action (e.g., removal, reassignment, demotion, promotion, or merit pay or other performance award) is performance-related.

(3) Recommendations for training that are performance-related. (Documentation of completion of or attendance at training in excess of 8 hours is to continue to be filed in the OPF.)

(4) Any form or other document furnished in support of recommended actions such as those listed in paragraph (b)(2) of this section and the agency's final decision on the matter (e.g., a recommendation for merit pay or an agency decision to grant only one-half the comparability pay adjustment).

(5) Any form or other document which the rating official is required by the agency to keep during an appraisal period (e.g., quality control records, production records, or similar records used to track employee performance during the appraisal period.)

(6) Any form or other document regarding Performance Review Board decisions, including supporting documentation and any transcript of hearings or testimony from witnesses.

(7) Any form or other document regarding decisions or recommendations of agency Executive Resources Boards related to performance appraisal or actions resulting from performance appraisals.

(8) Appraisals of potential (e.g., in connection with an agency's merit promotion procedures) if agency implementing instructions specifically require or permit retention of a copy.

(9) Individual development plans.

(10) Copies of licenses, certificates of proficiency, or similar documents required of the position.

(c) General information about the employee, i.e., identification data, information concerning Federal and non-Federal employment experience, and information about any training programs the employee participated in may, if an agency deems it appropriate, be retained in this system.

§ 293.404 Retention schedule.

(a)(1) No performance appraisal or document supporting it is a permanent record and performance records, except for appointees to the SES and including incumbents of executive positions not covered by the SES, are to be retained as prescribed below:

(i) Summary performance appraisals records (including identification of elements and standards) shall be retained for three years;

(ii) Supporting documents shall be retained for as long (up to three years) as the agency deems appropriate;

(iii) Performance records superseded, e.g., through an administrative or judicial procedure, and performance-related records pertaining to a former employee need not be retained for a minimum of three years. Rather, in the former case they are to be destroyed and in the latter case agencies shall determine the retention schedule; and

(iv) Except where prohibited by law, retention of automated records longer than the maximum prescribed here is permitted for purposes of statistical analysis so long as the data are not used in any action affecting the employee when the manual record has been or should have been destroyed.

(2) When an employee is reassigned within the employing agency, disposition of records in this system, including transfer with the employee, shall be as agencies prescribe.

(3) Appraisals of unacceptable performance, where a notice of proposed demotion or removal is issued but not effected, and all documents related thereto, manual and automated, pursuant to 5 U.S.C. 4303(d) must be destroyed after the employee completes one year of acceptable performance from the date of the written advance notice of the proposed removal or reduction in grade notice. Under conditions specified by an agency, and earlier destruction date is permitted and destruction must be no later than 30 days after the year is up.

(b) Performance records for Senior Executive Service appointees, including those serving under a Presidential appointment under 5 U.S.C. 3392(c), are to be retained as follows:

(1) Pursuant to 5 U.S.C. 4314(b) (3) and (4), Senior Executive Service appointees shall have their performance-related records maintained for five consecutive years (from the date the appraisal is issued) beginning with the effective date of appointment, including individuals receiving appointments pursuant to 5 U.S.C. 3593(b).

(2) When an appointee of the Senior Executive Service moves to another position in the Service, either with the same or a different agency, all appropriate performance-related documents five years old or less shall be forwarded in the Employee Performance File along with the individual's OPF.

(3) When an employee in the Senior Executive Service accepts a Presidential appointment pursuant to 5 U.S.C. 3392(c), the employee's performance file shall be retained as long as the employee remains employed under that Presidential appointment. When the appointment ends, and the individual does not return to the Senior Executive Service, the employee's performance file shall be destroyed in accordance with agency procedures

(c) Where any performance-related document is needed in connection with an ongoing administrative, negotiated, quasi-judicial, or judicial proceeding, and it continues to be retained in this system rather than another system, it may be retained for as long as necessary beyond the retention schedules identified in paragraphs (a) and (b) of this section.

(d) Screening and purging of folders/envelopes and rating official's work files for the purpose of compliance with these retention schedules shall be through any agency process insuring consistency with the requirements.

§ 293.405 Disposition of records.

(a) Because performance-related records filed in the Employee Performance File are not considered permanent in nature, such records shall not, except when maintained in a separate envelope in the OPF of an active employee or as provided for in § 293.404(b) of this part, be placed in the OPF or otherwise sent to another agency or to the National Personnel Records Center for filing in an OPF. Envelopes stored in an employee's OPF shall be removed before forwarding the OPF to another agency or to the National Personnel Records Center for storage.

(b) Consistent with transfer instructions pertaining to SES positions contained in this part, employee performance files shall be forwarded to gaining agencies at the same time as the OPF (5 CFR 293.207).

(c) Consistent with retention schedules promulgated in § 293.404, destruction of performance-related records shall be in accordance with agency procedures (e.g., by shredding or burning).

(d) If a former employee returns to an agency, a new employee performance file will be created unless the prior file for this employee is still available. The original file may be reactivated provided that, consistent with the retention schedules and destruction requirements promulgated in this subpart, the contents are properly disposed of.

(e)(1) It is the responsibility of the agency Personnel Director to insure the maintenance of employee performance files in accordance with this subpart and subparts A and B of this part, Part 297 of this title, and with Office of Personnel Management guidance.

(2) This responsibility may be delegated in writing to other agency

officials as appropriate. Implementing guidelines for agency performance appraisal systems shall provide written instructions for compliance with Office rules and procedures as well as descriptions of the documents and where they are retained, and shall ensure that records are retained in accordance with the provisions of § 293.402.

§ 293.406 Disclosure of records.

Disclosure as used here means the furnishing of the record to someone other than the individual to whom the record pertains, his/her designated representative, or to an agency official who needs the information in the performance of official duties. Disclosure of information from this file system shall be made only as permitted by the Privacy Act (5 U.S.C. 552a(b)) and, with regard to the routine use provisions of that section, only under a routine use published by the Office for the system of records covering these records. However, to the extent that this system contains the data identified as being available to the public in § 293.311, for most Federal employees and under the same restrictions listed in that section, that information shall also be made available to the public from this system.

[FR Doc. 82-1535 Filed 1-21-82; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 343]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January 24–30, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 24, 1982.

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

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

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on January 19, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues easy.

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Section 910.643 is added as follows:

§ 910.643 Lemon Regulation 343.

The quantity of lemons grown in California and Arizona which may be handled during the period January 24, 1982, through January 30, 1982, is established at 210,000 cartons.

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

Dated: January 21, 1982

D. S. Kuryloski

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

[FR Doc. 82-1819 Filed 1-21-81; 12:37 pm]
BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

7 CFR Part 319

Khapra Beetle

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of Interim Rule.

SUMMARY: This document, with certain changes, affirms interim regulations imposing restrictions on the importation into the United States (defined as the States, the District of Columbia, and certain Territories of the United States) of the following articles from the specified localities or countries:

(1) Brassware and wooden screens from Bombay, India;

(2) Whole chilies (*Capsicum* spp.) and whole red peppers (*Capsicum* spp.) in jute or burlap bags from Pakistan;

(3) Goatskins, lambskins, and sheepskins (excluding goatskins, lambskins, and sheepskins which are fully tanned, blue-chromed, pickled in mineral acid, or salted) from Sudan or India; and

(4) Used burlap bagging not containing cargo and used jute bagging not containing cargo from Afghanistan, Algeria, Bangladesh, Burma, Cyprus, Egypt, India, Iran, Iraq, Israel, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Senegal, Sri Lanka, Sudan, Tunisia, Turkey, or Upper Volta.

This is necessary in order to prevent the introduction of khapra beetle into the United States.

EFFECTIVE DATE: February 22, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanier, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8247.

SUPPLEMENTARY INFORMATION: Executive Order 12291 and Regulatory Flexibility Act.

This rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an

annual effect on the economy of approximately $275,000; that this rule would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and that this rule will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule imposes restrictions on the importation of the following articles which are designated as restricted articles:

(1) Brassware and wooden screens from Bombay, India;

(2) Whole chilies (*Capsicum* spp.) and whole red peppers (*Capsicum* spp.) in jute or burlap bags from Pakistan;

(3) Goatskins, lambskins, and sheepskins (excluding goatskins, lambskins, and sheepskins which are fully tanned, blue-chromed, pickled in mineral acid, or salted) from Sudan or India; and

(4) Used burlap bagging not containing cargo and used jute bagging not containing cargo from Afghanistan, Algeria, Bangladesh, Burma, Cyprus, Egypt, India, Iran, Iraq, Israel, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Senegal, Sri Lanka, Sudan, Tunisia, Turkey, or Upper Volta.

These articles are imported for retail sale or for manufacturing purposes. Under the rule they are required to be fumigated at the time of importation. Also, they are subject to additional requirements concerning permits, marking and identity, arrival notification, and ports of entry. In addition, new provisions are added to provide that restricted whole chiles and whole red peppers are required to be accompanied by phytosanitary certificates of inspection.

The Department relies on inspection of articles not designated as restricted articles for determinations as to whether they are infested with khapra beetle, and requires fumigation of those found to be infested.

The brassware and wooden screens imported from Bombay, India, are imported for retail sale. They represent an insignificant portion of the brassware and wooden screens sold in the United States.

It appears that a substantial portion of the whole chilies and red peppers from Pakistan will be eligible for importation without restrictions under the rule since, according to a representative of a spice trade association, the industry is currently changing the bagging from jute or burlap to other bagging such as polypropylene. It is estimated that the alternative bagging would not represent a significant increase in costs for bagging.

The restricted goatskins, lambskins, and sheepskins are essentially imported to be used as materials for gloves. Based on information submitted by industry, it appears that the amount of restricted skins imported for this purpose represents an insignificant percentage of the total number of skins used as materials for gloves.

The used burlap and used jute bagging which are designated as restricted articles are imported for bagging or manufacturing purposes. They compete with new and used burlap and jute bagging and other bagging. The restricted burlap and jute bagging represent an insignificant amount of the bagging used in the United States.

Further, it appears that the importation or sale of any of the restricted articles is not the primary activity of any business in the United States.

Alternatives were considered in connection with the rule. Alternatives considered were (1) to rely merely on inspection of articles upon importation for determination as to whether they are infested with khapra beetle and to treat those found to be infested with khapra beetle, (2) to prohibit the importation of the articles listed as restricted articles and to rely on the inspection system for other articles or (3) to allow the importation of the articles listed as restricted articles only in accordance with the provisions in the rule and to rely on the inspection system for other articles.

Alternative (1) is not adopted. High percentages of shipments of restricted articles are found to be infested with khapra beetle, and it appears necessary to take action against all shipments of restricted articles to help prevent the introduction of khapra beetle that might not be detected upon inspection.

Alternative (2) is not adopted because it is unnecessarily restrictive.

Alternative (3) is adopted. It appears that this is adequate to prevent a significant risk of introducing khapra beetle into the United States and consequently of infesting and causing severe damage to cereal products, seeds, cottonseed meal, nut meals, dried fruits or other products. The benefits of restricting the importation of certain articles under the conditions imposed by the rule far outweigh any costs of compliance and it appears that the rule maximizes net benefits to society at the lowest net cost.

Dr. H. C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that, under the circumstances explained above, it is anticipated that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

Information collection requirements contained in this regulation (7 CFR 319.75–3) have been approved by the Office of the Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0579–0049.

Background

In a document published in the **Federal Register** on July 27, 1981 (46 FR 38331–38336), the Department established, on an emergency basis, interim regulations (7 CFR 319.75 through 319.75–8) imposing restrictions on the importation from specified countries or localities of certain articles likely to cause infestations of the khapra beetle. Under the interim regulations the following articles from the specified countries or localities are allowed to be imported into the United States only if treated in accordance with specified criteria, or if imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions:

(1) Brassware and wooden screens from Bombay, India;

(2) Whole chilies (*Capsicum* spp.) and whole red peppers (*Capsicum* spp.) in jute or burlap bags from Pakistan;

(3) Goatskins, lambskins, and sheepskins (excluding goatskins, lambskins, and sheepskins which are fully tanned, blue-chromed, pickled in mineral acid, or salted) from Sudan or India; and

(4) Used burlap bagging not containing cargo and used jute bagging not containing cargo from Afghanistan, Algeria, Bangladesh, Burma, Cyprus, Egypt, India, Iran, Iraq, Israel, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Senegal, Sri Lanka, Sudan, Tunisia, Turkey, or Upper Volta.

The document of July 27, 1981, provided that written comments were to be received on or before September 25, 1981. Also, in accordance with the notice given in the document of July 27, 1981, a public hearing to consider the rule was held on September 2, 1981, in Hyattsville, Maryland.

Written comments were received from a State Department of Agriculture and a spice trade association. No comments were presented at the public hearing. Based on the reasons set forth in this

document and in the document of July 27, 1981, the provisions in the interim rule have been adopted except as otherwise explained below.

The interim regulations provide that articles designated as restricted articles are required to be treated in accordance with § 319.75–4 at the time of importation because of possible infestations of khapra beetle. The list of restricted articles includes whole chilies and whole red peppers in jute or burlap bags from Pakistan. The representative of the State Department of Agriculture asserted that recent shipments of spices shipped in burlap or jute bags from India and Ceylon (Sri Lanka) have been found to be infested with khapra beetle and that any spices in burlap or jute bags from any infested countries should be included as restricted articles. No changes are made based on this comment. As stated in the document of July 27, 1981 (46 FR 38332), the list of restricted articles consists of those articles found to be likely to carry the khapra beetle. Almost any article could be the means of carrying khapra beetle. The list of restricted articles represents all of those articles found, based on a review of interception records, to present a high risk of carrying the khapra beetle. There is authority to inspect any articles at the port of entry for khapra beetle and those articles which appear to present a risk of carrying the khapra beetle are being inspected to determine whether they are infested. However, since high percentages of shipments of articles listed as restricted articles are found to be infested with the khapra beetle, all shipments of these articles are required to be treated at the time of importation.

The other written comments, offered by a spice trade association, deal with the effect of the restrictions on whole chilies and red peppers in jute or burlap bags from Pakistan.

Section 319.75–3(b)(2) of the interim rule provides that an application for a written permit for importation of a restricted article shall include a statement of the approximate quantity and kinds of articles intended to be imported. It was asserted that the import figures of the prior crop year should be submitted rather than estimates for those articles intended to be imported pursuant to a permit. No changes are made based on this comment. One of the major purposes of the permit requirement is for the Department to obtain advance notice of the approximate quantity and kinds of articles intended to be imported in order to help determine personnel needs for each port. This must be based on projected needs rather than merely on past activities. However, past import figures could be a relevant consideration for projecting the quantity and kinds of articles intended to be imported.

Section 319.75–3(b) (3), (4) and (5) of the interim rule provides that the application for a written permit state the country or locality of origin, the country(ies) or locality(ies) where the article is intended to be offloaded prior to arrival in the United States, and the intended U.S. port of entry. With respect to the chilies and red peppers, it was asserted that the information concerning offloading and ports of entry may not have been finally determined at the time of the filing of the application, and further that there is no need for any of the information referred to in paragraphs (b) (3), (4), and (5). No changes are made based on these comments. Since there may be instances when information concerning any place of unloading or port of entry may not have been fully determined at the time of filing of the application, these provisions only require information concerning any country(ies) or locality(ies) where the article is "intended" to be offloaded prior to arrival in the United States and information concerning the "intended" port of entry. Further, it appears that it is necessary to obtain this information. Based on departmental expertise, it has been determined that the restricted chilies and red peppers are likely to become infested with khapra beetle if they originate from or are offloaded in Pakistan. Consequently, the regulations were designed to impose restrictions on the importation of such chilies and red peppers originating from or offloaded in Pakistan to prevent the movement into the United States of the khapra beetle. Pursuant to sections 1 and 5 of the Plant Quarantine Act (7 U.S.C. 154,159) the restricted chilies and red peppers may be imported only if a permit has been issued for the importation of such articles. Accordingly, it is necessary to know whether the articles originated in Pakistan or were offloaded in Pakistan in order to determine whether a permit is needed for the importation of the article. Also, even if the chilies or peppers originated in Pakistan it would be helpful to know the countries or localities in which they are intended to be offloaded prior to arrival in the United States. This would help assure that the listing on accompanying documentation of a country or locality in which an article was offloaded would not be mistaken for the country of origin at the port of arrival in the U.S. Further, statements of intended ports of entry are helpful in determining personnel needs at ports of entry.

Section 319.75–3(b)(6) of the interim rule provides that the application for a written permit include the name of the intended fumigator at the U.S. port of entry. It was asserted that the request for this information should be deleted from the application form since determinations concerning which commercial fumigator is to be used are usually not known at the time the application for a permit is submitted. It was further stated that the availability of a fumigator is often not known prior to arrival, and that often at the time of arrival lots from various shipments can be consolidated for reduced costs of treatment both for the importer and for USDA personnel supervising such treatments. The Department agrees with these reasons which appear to be applicable for all restricted articles. Under these circumstances, it appears that it would not serve a useful purpose to require that the application contain the name of a fumigator. Accordingly, the provisions in the application concerning the name of the intended fumigator are deleted for all restricted articles.

Section 319.75–3(b)(8) of the interim rule provides that the application for a written permit for restricted articles contain the expected date of arrival. It was asserted that the exact date of arrival often could not be determined at the time of the application and that only approximate dates would be known at that time. No changes are made based on this comment. This provision only requires that the "expected" date of arrival be stated and approximate dates would be sufficient for compliance with such provisions.

It was suggested that each importer be assigned a permanent registry number for the importation of restricted articles to assure ready identification of a firm at any port of entry for any present or future importations of restricted articles. No changes are made based on this comment. It does not appear that this would provide any useful information not already required to be available under the current system.

Section 319.75–5 of the interim rule provides, among other things, that at the time of importation any restricted article shall plainly and correctly bear on the outer container (if in a container) or on the restricted article (if not in a container) the name and address of shipper, owner, or person shipping or forwarding the article; and the name and address of consignee. It was asserted that these provisions should not be applicable to whole chilies and

whole red peppers in jute or burlap bags from Pakistan. No changes are made based on this comment. These provisions reflect statutory requirements set forth in sections 3 and 5 of the Plant Quarantine Act (7 U.S.C. 157 and 159) for the chilies and red peppers.

Section 319.75–5(a)(6) of the interim rule provides that the marking on the outer container (if in a container) or on the restricted article (if not in a container) at the time of importation shall include the number of the written permit authorizing the importation. It was asserted that this provision is not necessary and should be deleted. The Department agrees with the comment and this provision is deleted for all restricted articles. This provision was intended to help inspectors to determine whether a valid permit had been issued. Based on experience at the ports, it appears that this is not necessary since the determination as to whether a permit has been issued for any restricted article is generally made based on reference to the name of the importer and name of the permit holder rather than on the basis of the permit number.

It was further indicated that consideration should be given to the establishment of safeguards because of the possibility of contamination of khapra beetle from infested holds in a vessel. In this connection, it should be noted that routine inspections of vessels and cargo for the presence of khapra beetle are made in accordance with 7 CFR Part 330. If infestations are found, appropriate fumigations are required to be performed.

As explained in the document of July 27, 1981, this rule includes a new provision (§ 319.75–9) to require whole chilies and whole red peppers designated as restricted articles to be accompanied by a phytosanitary certificate of inspection. This is to comply with the provisions of sections 1 and 5 of the Plant Quarantine Act (7 U.S.C. 154, 159) which state that nursery stock, and restricted plants, fruits, vegetables, roots, bulbs, seeds, or plant products from a country maintaining an official system of inspection for such articles are to be accompanied at the time of importation by a certificate of inspection from an official of the country from which the importation is made, certifying that the article has been thoroughly inspected and is believed to be free from injurious plant diseases and insect pests. Whole chilies and whole red peppers are vegetables and Pakistan maintains such an official system of inspection.

Pursuant to §§ 319.75–4 and 319.75–9, the chilies and red peppers are required to be accompanied by such a certificate at the time of importation and are also required to be treated at the port of entry. It was asserted that the requirement for the phytosanitary certificate of inspection ". . . might lead some to assume that such a certificate was acceptable even though it is clear that fumigation is [also] required. . . ." However, § 319.75(a) of the rule clearly provides that all restrictions in the subpart are required to be met, including restrictions concerning certificates and treatment.

As noted above, the final rule includes the Plant Quarantine Act as authority. There is authority in section 10 of that Act for seizure, destruction, or other disposition of certain restricted articles, and § 319.75(a) is amended to state that such authority is available.

As explained above, the rule imposes restrictions on the importation of certain whole chilies and red peppers, and on certain used burlap and jute bagging. Under provisions in 7 CFR 319.56 *et seq.* fresh whole chilies and fresh red peppers from Pakistan are prohibited from being imported into the United States. Also, such bagging may be subject to additional restrictions under the provisions in 7 CFR 319.8 *et seq.* Appropriate footnotes are added to indicate that these provisions are in effect.

Also, certain minor changes have been made to reflect that the regulations are no longer interim or emergency regulations.

PART 319—FOREIGN QUARANTINE NOTICES

Under the circumstances referred to above "Subpart—Khapra Beetle Emergency Regulations" in 7 CFR Part 319 (7 CFR 319.75 *et seq.*) is amended as follows:

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

Authority: Secs. 5 and 9; 37 Stat. 316, 318; 7 U.S.C. 159, 162; secs. 105, 106, and 107; 71 Stat. 32–34; 7 U.S.C. 150dd, 150ee, 150ff; 37 FR 28464, 28477, as amended; 38 FR 19141.

2. The words "Emergency Regulations" are removed from the subpart heading.

3. Section 319.75(a) is revised to read as follows:

§ 319.75 Restrictions on importation of restricted articles; disposal of articles refused importation.

(a) "The Secretary has determined that in order to prevent the entry into the United States of khapra beetle (*Trogoderma granarium* Everts) it is necessary to restrict the importation of certain articles from foreign countries and localities. Accordingly, no person shall import any restricted article unless in conformity with all of the applicable restrictions in this subpart.

* * * * *

§ 319.75 [Amended]

4. Section 319.75(b) is amended by adding "section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and" immediately after the words "in accordance with".

5. Section 319.75–2 is revised to read as follows:

§ 319.75–2 Restricted articles.

The following articles from the specified localities or countries are restricted articles:

(a) Brassware and wooden screens from Bombay, India;

(b) Whole chilies (*Capsicum* spp.) and whole red peppers (*Capsicum* spp.) in jute or burlap bags from Pakistan;[1]

(c) Goatskins, lambskins, and sheepskins (excluding goatskins, lambskins, and sheepskins which are fully tanned, blue-chromed, pickled in mineral acid, or salted) from Sudan or India; and

(d) Used burlap bagging not containing cargo and used jute bagging not containing cargo if from Afghanistan, Algeria, Bangladesh, Burma, Cyprus, Egypt, India, Iran, Iraq, Israel, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Senegal, Sri Lanka, Sudan, Tunisia, Turkey, or Upper Volta.[2]

§ 319.75–3 [Amended]

6. Footnotes 1 and 2 in § 319.75–3 are redesignated as footnotes 3 and 4.

7. Section 319.75–3(b) is amended by removing subparagraph (6) and by redesignating subparagraphs (7) and (8) as subparagraphs (6) and (7).

§ 319.75–5 [Amended]

8. Section 319.75–5(a) is amended by removing subparagraph (6).

9. A new section 319.75–9 is added to read as follows:

§ 319.75–9 Phytosanitary certificates of inspection.

Any whole chilies (*Capsicum* spp.) and whole red peppers (*Capsicum* spp.) in jute or burlap bags originating in Pakistan shall be accompanied at the time of importation into the United States by a phytosanitary certificate of inspection from the plant protection service of Pakistan. The certificate shall

[1] Fresh whole chilies (*Capsicum* spp.) and fresh whole red peppers (*Capsicum* spp.) from Pakistan are prohibited from being imported into the United States under the provisions of 7 CFR 319.56 *et seq.*

[2] Such bagging may be subject to additional restrictions under the provisions in 7 CFR 319.8 *et seq.*

be addressed to the plant protection service of the United States (Plant Protection and Quarantine), shall contain a description of the restricted article intended to be imported into the United States, and shall certify that the article has been thoroughly inspected and is believed to be free from injurious plant diseases and insect pests. Such certificate may cover more than one article and more then one container kept together during shipment and offer for importation.

Done at Washington, D.C., this 19th day of January 1982.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine Animal and Plant Health Inspection Service.

[FR Doc. 82-1671 Filed 1-21-82; 8:45 am]

BILLING CODE 3410-34-M

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7 CFR Part 319

Importation of Certain Articles of Hyacinthus spp.

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the "Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" regulations to allow the importation into the United States of articles of *Hyacinthus* spp. (hyacinth) established in certain growing media if imported in accordance with specified criteria designed to prevent the introduction into the United States of injurious plant diseases, injurious insect pests, and other plant pests. This is warranted in order to delete unnecessary requirements concerning the importation of such articles.

EFFECTIVE DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Frank Cooper, Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635 Federal Building 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8248.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Regulatory Flexibility Act

The final rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an annual effect on the economy of less than $100,000; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Articles of *Hyacinthus* spp. (hyacinth) have not been allowed to be imported in growing media unless they were from Canada (except certain areas in Canada), were established in a translucent or transparent tissue culture medium, or were imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions. The final rule allows the importation of articles of *Hyacinthus* spp. (hyacinth) established in unused peat, sphagnum moss, vermiculite, or in certain synthetic material if imported in accordance with specified criteria designed to prevent the introduction into the United States of injurious plant diseases, injurious insect pests, and other plant pests.

Plants grown from bulbs of *Hyacinthus* spp. compete on the market with established flowering plants that may be purchased at retail stores. There are many hundreds of millions of such flowering plants offered for sale in the United States annually. However, based on information submitted by an industry representative, it is estimated that not more than 20,000 bulbs of *Hyacinthus* spp. will be imported the first year in growing media in accordance with the provisions in the final rule, and that in future years the number could rise or decrease depending on market conditions.

Bulbs of *Hyacinthus* spp. are currently imported free of growing media and grown into plants in the United States by approximately 1,000 businesses. Many thousands of businesses sell such plants at retail. The final rule will not preclude these businesses from continuing to sell such plants. Further, it appears that growing or selling plants of *Hyacinthus* spp. is not the primary activity of any business in the United States.

Alternatives were considered in connection with the final rule. Consideration was given concerning whether (1) To allow the importation of articles of *Hyacinthus* spp. in the growing media specified in the final rule without the imposition of restrictions set forth in the final rule, (2) to make no changes in the regulations concerning the importation of articles of *Hyacinthus* spp. established in growing media, or (3) to allow the importation of articles of *Hyacinthus* spp. established in growing media in accordance with restrictions set forth in the final rule.

Alternative (1) is not adopted because it appears that articles of *Hyacinthus* spp. imported in such growing media without meeting the requirements set forth in the proposal would present a significant risk of introducing any of a large number of injurious plant diseases, injurious insect pests, and other plant pests. Alternative (2) is not adopted because it appears that it is unnecessarily restrictive. Alternative (3) is adopted because it appears that articles of *Hyacinthus* spp. can be imported under the proposed provisions without a significant risk of introducing such diseases or pests. Further, it appears that there is no feasible alternative to consider in compliance with the requirement that agencies choose the alternative that maximizes net benefits to society at the lowest net cost.

Dr. H. C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that, under the circumstances explained above, it is anticipated that the final rule will not have a significant economic impact on a substantial number of small entities.

Background

In a document published in the **Federal Register** on October 28, 1981 (46 FR 53185-53188), the Department proposed to amend the "Nursery Stock, Plants Roots, Bulbs, Seeds, and Other Plant Products" regulations (set forth in 7 CFR 319.37 *et seq.* and referred to below as the regulations) to allow the importation into the United States of articles of *Hyacinthus* spp. (hyacinth) established in certain growing media if imported in accordance with specified criteria designed to prevent the introduction into the United States of injurious plant diseases, injurious insect pests, and other plant pests.

The document of October 28, 1981, invited the submission of written comments on or before November 27, 1981. Also, pursuant to notification in the document of October 28, 1981, a public hearing was held in College Park, Maryland on November 12, 1981. Three written comments were received in response to the proposal, and one comment was presented at the public hearing. The comments were from a wholesale grower of plants of *Hyacinthus* spp., a representative of a seed company which imports bulbs of *Hyacinthus* spp., a representative of a nurserymen's association, and a representative of bulb exporter's group.

Based on the reasons set forth in the proposal, the provisions in the proposal have been adopted in the final rule as proposed except as otherwise explained below. Further, all of the comments submitted pursuant to the proposal have been carefully considered and are discussed below.

The wholesale grower asserted that he was opposed to the adoption of the proposed rule because he felt that it could have an adverse effect on his business, but that he would not oppose the adoption of the proposal if tariffs or duties were imposed. No changes are made based on this comment. As indicated above in the "Executive Order 12291 and Regulatory Flexibility Act" portion of this document, it has been determined that the adoption of the final rule will not cause significant adverse effects on competition, and will not have a significant economic impact on a substantial number of small entities. Also, it should be noted that this Department does not set tariffs and duties.

The representative of the seed company did not raise any particular objection to the proposal. However, he indicated that the adoption of the proposal would not appear to create an advantage to his business, which apparently involves growing hyacinth plants from bulbs. No changes were requested and none are made on the basis of this comment.

As noted above, it was proposed to amend the regulations to allow the importation of articles of *hyacinthus* spp. established in certain growing media if imported in accordance with specified criteria. The criteria include the provision that the articles are to be grown throughout the growing period only in coldroom with temperatures not exceeding 6° C (43° F). The representatives of the nurserymen's association and the bulb exporter's group asserted that the term "with temperatures not exceeding 6° C (43° F)" was incorrect and should be changed to "with temperatures not exceeding 9° C (48° F)." The Department agrees that the temperature should be changed in accordance with these comments. As explained in the proposal (see 46 FR 53187) the temperature was based on the maximum temperature allowed in the coldroom under an experimental program conducted in 1974 and found adequate to protect against diseases and pests. The maximum temperature allowed in the 1974 experiment was 9° C (48° F) and not 6° C (43° F). Therefore, the maximum temperature is changed in the final rule to reflect the maximum temperature allowed under the experimental program.

No other changes are made from the language set forth in the proposal other than certain nonsubstantive changes made for purposes of clarity.

In accordance with the provisions in §§ 319.37–3 and 319.37–14 of the regulations, lots of 13 or more articles designated as restricted articles (other than seeds, bulbs, or sterile cultures of orchid plants) from any country or locality except Canada are allowed to be imported only at the 14 ports of entry designated by an asterisk in § 319.37–14(b) of the regulations. Accordingly, lots of 13 or more articles of *Hyacinthus* spp. established in growing media are allowed to be imported only at these ports of entry. The provisions in §§ 319.37–3 and 319.37–14 were intended to require restricted articles presenting a substantial risk of carrying injurious plant diseases, insect pests, or other plant pests to be imported only at ports of entry with special inspection and treatment facilities. The representative of the bulb exporter's group asserted that articles of *Hyacinthus* spp. should be allowed to be imported at any of the ports listed in § 319.37–14(b). It was contended that under the conditions in the proposal articles of *Hyacinthus* spp. would be inspected and precleared in the country of origin and, consequently, would not present a significant risk of carrying such diseases or pests at the time of importation.

This issue concerning whether such articles of *Hyacinthus* spp. should be allowed to be imported at any of the ports listed in § 319.37–14(b) appears to be broader than the issues raised by the proposal concerning articles of *Hyacinthus* spp. Under § 319.37–8(e) articles of Polypodiophyta (=Filicales)(ferns), *Saintpaulia* spp. (African violet), *Gloxinia* spp. (Gloxinia), *Begonia* spp. (begonia), or *Peperomia* spp. (peperomia) are allowed to be imported under conditions similar to those set forth in this document for articles of *Hyacinthus* spp. In this connection it should be noted that consideration is being given concerning whether a proposal should be published to allow articles of *Hyacinthus* spp. and articles of the other five categories to be imported in growing media under such a preclearance program at any of the ports listed in § 319.37–14(b). However, if proposed, this would be the subject of a separate rulemaking document.

In addition to requirements discussed above concerning ports, it should also be noted that articles of *Hyacinthus* spp. are subject to additional general requirements in the regulations concerning permits, inspection, phytosanitary certificates of inspection, growing media, approved packing material, marking and identity, arrival notification, prohibited articles accompanying restricted articles, and treatment and costs and charges for inspection and treatment (see 7 CFR 319.37 through 319.37–14).

The final rule relieves restrictions which have been found to be unnecessary. Accordingly, prompt action should be taken to delete the restrictions. Therefore, in accordance with the provisions of 5 U.S.C. 553 the final rule is made effective upon publication (January 22, 1982).

PART 319—FOREIGN QUARANTINE NOTICES

Under the circumstances referred to above, § 319.37–8 of the "Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" regulations (7 CFR 319.37–8) is amended by adding a new paragraph (f) to read as follows:

§ 319.37–8 Growing media.

* * * * *

(f) A restricted article of *Hyacinthus* spp. (hyacinth) may be imported established in unused peat, sphagnum moss, or vermiculite growing media, or in synthetic growing media or synthetic horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, or ureaformaldehyde:

(1) If there is a written agreement between Plant Protection and Quarantine and the plant protection service of the country where the article is grown in which the plant protection service of the country where the article is grown agrees to implement a program in compliance with the provisions of this section;

(2) If there is a written agreement between the grower of the article and the plant protection service of the country in which the article is grown wherein the grower agrees to comply with the provisions of this section, wherein the grower agrees to allow an inspector access to the growing facility as necessary to monitor compliance with the provisions of this section, and wherein the grower agrees to allow representatives of the plant protection service of the country in which the article is grown access to the growing facility as necessary to make determinations concerning compliance with the provisions of this section;

(3) If: (i) Inspected immediately prior to the growing period by the plant protection service of the country in which the article is to be grown and found to be free of injurious plant diseases, injurious insect pests, and other plant pests;

(ii) Grown throughout its growing period only in a coldroom (with temperatures not exceeding 9° C (48° F)) within an enclosed building;

(iii) Grown only in a coldroom unit solely used for articles grown under all the criteria specified in this paragraph (f);

(iv) Grown only in unused peat, sphagnum moss, or vermiculite growing media; or grown only in synthetic growing media or synthetic horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, ureaformaldehyde;

(v) Watered only with clean rainwater that has been pasteurized, with clean well water, or with potable water;

(vi) Grown in a coldroom free of sand, soil, or earth;

(vii) Grown only in a coldroom where strict sanitary procedures are always practiced, i.e., cleaning and disinfection of floors and tools and the application of measures to protect against any injurious plant diseases, injurious insect pests, and other plant pests; and

(viii) Stored only in areas found free of sand, soil, earth, injurious plant diseases, injurious insect pests, and other plant pests;

(4) If appropriate measures have been taken to assure that the article is to be stored, packaged, and shipped free of injurious plant diseases, injurious insect pests, and other plant pests;

(5) If accompanied by a phytosanitary certificate of inspection containing an accurate additional declaration from the plant protection service of the country in which grown that the article meets conditions of growing, storing, and shipping in compliance with 7 CFR 319.37–8(f); and

(6) If the accompanying phytosanitary certificate of inspection is endorsed by a Plant Protection and Quarantine inspector in the country of origin or at the time of offer for importation, representing a finding based on monitoring inspections that the conditions listed above are being met.

(Secs. 1, 5 and 9, 37 Stat. 315, 316, and 318, as amended; Sec. 105, 71 Stat. 32 (7 U.S.C. 154, 159, 162, 150ee); 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 18th day of January 1982.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-1653 Filed 1-21-82; 8:45 am]

BILLING CODE 3410-34-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby revises REA Form 220, "Architectural Services Contract," which is attached to REA Bulletin 42–1, "Architectural Services for Electric Borrowers." The revision is intended to update the form with regard to the typical contract provisions for architectural services throughout the country. While some borrowers are obtaining architectural services using the existing version of REA Form 220, many borrowers are having to modify this form in order to obtain the services. Several large architectural firms have indicated that they would refuse to enter into a contract on the existing contract form unmodified.

Of primary concern to the architects is liability, inherent in the existing versions of the form, for supervision of contractors and verification that proper construction practices were followed during periods when the architect was not on the site. The revised form continues to require frequent inspection of the project by the architect, however.

EFFECTIVE DATE: January 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Dedman, telephone (202) 382–0096. A Final Impact Statement has been prepared and is available from the Director, Engineering Standards Division, Rural Electrification Administration, Room 1270–S, U.S. Department of Agriculture, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA hereby amends Appendix A—REA Bulletins to announce revised REA Form 220, "Architectural Services Contract," which is attached to REA Bulletin 42–1, "Architectural Services for Electric Borrowers." This final action has been issued in conformance with Executive Order 12291, Federal Regulation. Since no significant effect on the economy will occur; since no significant increase in cost for consumers, industries or Government will result; and since no significant impact on economic conditions will be caused, this action has been determined to be "not major".

The Regulatory Flexibility Act (Pub. L. 96–354) is not applicable to this action, therefore a Regulatory Flexibility Analysis has not been prepared.

The last revision of REA Form 220 was dated August 1969. Changes in the typical contracts for architectural services throughout the country since that date have resulted in difficulty for some REA borrowers in obtaining architectural services under the 1969 version of the form. Thus, there is a need to incorporate those changes into the architectural services contract so that REA borrowers will continue to be able to obtain quality architectural services at a reasonable cost.

The two options considered were (1) leave the form unchanged, or (2) revise the form to better conform to standard practices in this field. The second option was chosen since it is necessary for REA borrowers to obtain quality architectural services.

Interested parties were given sixty (60) days in which to express their views on the proposed rule, however, comments received after the sixty-day period were also considered by REA. The October 7, 1980, notice in the **Federal Register** elicited the following major comments on the proposed rule:

(a) *Comment:* The architect's duties and responsibilities should be reduced to further eliminate liability for any failure of the contractor to perform properly under the construction contract.

Response: The architect is expected to have certain construction site duties and responsibilities as enumerated in the architectural services contract. Inspection of construction is one of these responsibilities. REA feels that the architect's responsibilities to the owner as a result of these construction site duties are not unreasonable.

(b) *Comment:* The compensation calculation schedule should be revised or eliminated to make possible negotiated contracts at reduced cost levels for certain types of projects.

Response: This comment has been accepted. The compensation table has been replaced by a blank table which is to be filled in by the borrower and architect. A sample compensation table to be used as a guide has been included in the appendix to the form.

This program is listed in the Catalog of Federal Domestic Assistance as

10.850, Rural Electrification Loans and Loan Guarantees.

Copies of the revised contract form are being mailed to REA electric borrowers and to architects. Others interested in obtaining a copy of the revised form should contact the Director, Office of Information and Public Affairs, Rural Electrification Administration, South Agriculture Building, Washington, D.C. 20250.

Dated: January 12, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82-1583 Filed 1-21-82; 8:45 am]

BILLING CODE 3410-15-M

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket 82-006]

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of Dade County in Florida because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in such portion of Dade County in Florida on January 14, 1982. Therefore, in order to prevent the dissemination of exotic Newcastle disease, it is necessary to quarantine the affected area.

EFFECTIVE DATE: January 15, 1982.

FOR FURTHER INFORMATION CONTACT: W. W. Buisch, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, Federal Building, Room 748, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This final action has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." Also, the emergency nature of this action makes it impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule.

The Department has determined that this rule will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Dr. J. K. Atwell, Deputy Administrator, USDA, APHIS, VS, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action. This amendment is necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish its purpose in the public interest.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because the quarantine imposed due to the existence of exotic Newcastle disease affects only one premise, and that premise is not owned by a small entity.

This amendment quarantines a portion of Dade County in Florida because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined area.

PART 82—EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY; PSITTACOSIS AND ORNITHOSIS IN POULTRY

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

In § 82.3, new paragraph (c)(2) is added to read:

§ 82.3 Imposition and removal of quarantine.

* * * * *

(c) * * *

(2) *Florida.* The premises of Mr. Robert Wiener, Fernwood Gardens, 7800 SW 117th Avenue, Miami, Dade County.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141))

Done at Washington, D.C., this 15th day of January 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 82-1518 Filed 1-21-82; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Parts 331 and 381

[Docket No. 82-001F]

Designation of the State of South Carolina Under Federal Meat Inspection Act and Poultry Products Inspection Act

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Secretary of Agriculture hereby designates the State of South Carolina under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act. A representative of the Governor of the State of South Carolina has advised this Department that the State of South Carolina will no longer be in a position to continue administering State meat and poultry inspection programs after February 21, 1982. Accordingly, effective February 22, 1982, all establishments operating under the South Carolina meat inspection program shall be subject to the provisions of titles I and IV of the Federal Meat Inspection Act. Additionally, effective February 22, 1982, all establishments operating under the South Carolina poultry inspection program shall be subject to sections 1-4, 6-10, and 12-22 of the Poultry Products Inspection Act. By this designation, the U.S. Department of Agriculture, pursuant to law, is merely assuming the responsibility, previously held by the State of South Carolina, of administering the meat and poultry inspection programs with respect to establishments operating, and intrastate operations and transactions, wholly within that State. The provisions of the regulations concerning designated States are set

forth in Parts 331 and 381, Subchapters A and C, Chapter III, Title 9 of the Code of Federal Regulations.

DATES: This notice of designation is effective on January 22, 1982. The effective date of this amendment is February 22, 1982. As a result of this amendment, the provisions of titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act will apply to the State of South Carolina on and after February 22, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. J. Blair, Director, Federal-State Relations Branch, Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6313.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." The U.S. Department of Agriculture, pursuant to law, is assuming the responsibility, previously held by the State of South Carolina, of administering the meat and poultry inspection programs with respect to establishments operating, and intrastate operations and transactions, wholly within that State. This action is being taken because a representative of the State of South Carolina indicated it was no longer in a position to enforce requirements with respect to said establishments at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. As stated above, the U.S. Department of Agriculture, pursuant to law, is assuming the responsibility, previously held by the State of South Carolina, of administering the meat and poultry inspection programs with respect to establishments operating, and intrastate operations and transactions, wholly within that State. This action will affect approximately 119 heretofore State inspected plants in South Carolina, most, if not all, of which may be presumed to be small business. However, this is not a substantial number of establishments given the approximately 10,000 small meat facilities and small poultry facilities nationwide, which are either federally or State inspected. Additionally, the application of certain Federal facility and other requirements to such establishments will be flexible insofar as each establishment will be reviewed with regard to the circumstances peculiar to that establishment. Furthermore, it is not anticipated that significant costs will be incurred by these South Carolina establishments as a result of this action. Those specific establishments for which some upgrading of facilities is indicated will be provided up to 36 months in which to make such changes.

Since the State of South Carolina has advised the United States Department of Agriculture that the State-operated meat and poultry inspection program will be discontinued due to budget reductions, the Federal Government is mandated by law to assume the responsibilities for the meat and poultry inspection programs with respect to intrastate operations and transactions wholly within the State. Therefore, no alternative actions under the law are available to the Department.

Background

A representative of the Governor of South Carolina has advised this Department that the State of South Carolina will no longer be in a position to continue administering the State meat inspection program after February 21, 1982, and has requested the Department to assume responsibility for carrying out the provisions of title I and IV of the Federal Meat Inspection Act, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State, and with respect to operations and transactions wholly within the State concerning meat and meat food products and other articles and animals subject to the Federal Meat Inspection Act, and persons, firms, and corporations engaged therein.

Also, a representative of the Governor of South Carolina has advised this Department that South Carolina will no longer be in a position to continue administering a State poultry inspection program after February 21, 1982, and has requested the Department to assume the responsibility for carrying out the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act with respect to establishments within the State of South Carolina at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and with respect to operations and transactions wholly within the State concerning products or other articles and animals subject to the Poultry Products Inspection Act, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of South Carolina had developed an activated requirements at least equal to the requirements under titles I and IV of the Federal Meat Inspection Act, and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. However, such titles and sections contemplate continuous, ongoing programs, and in view of the termination date now applicable to the South Carolina meat inspection and poultry inspection programs, it is hereby determined that South Carolina is not effectively enforcing requirements at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act.

On and after February 22, 1982, the provisions of titles I and IV of the Federal Meat Inspection Act shall apply to intrastate operations and transactions in said State, and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce", within the meaning of the Federal Meat Inspection Act, and any establishment in the State which conducts any slaughtering or preparation of carcasses or parts or products thereof, as described above, must have Federal meat inspection or cease its operations, unless it qualifies for an exemption under section 23(a) or 301(c) of the Federal Meat Inspection Act.

Also, on and after February 22, 1982, the provisions of sections 1–4, 6–10 and 12–22 of the Poultry Products Inspection Act shall apply to intrastate operations and transactions in said State and to

persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce", within the meaning of the Poultry Products Inspection Act, and any establishment in the State of South Carolina which conducts any slaughtering or processing of poultry or poultry products must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 15 or 15(c)(2) of the Poultry Products Inspection Act.

Therefore, the operator of each such establishment who desires to continue any such operations after February 21, 1982, should immediately communicate with the Regional Director for Meat and Poultry Inspection Operations as listed below, for information concerning the requirements and exemptions under the Acts and application for inspection and survey of the establishment: Dr. J. D. Willis, Director, Meat and Poultry Inspection Operations, Southeastern Regional Office, U.S. Department of Agriculture, Room 216, 1718 Peachtree Street NW., Atlanta, GA 30309 (404) 881-3911.

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

Accordingly, Part 331 of the Federal meat inspection regulations (9 CFR 331) is amended as follows:

1. The authority citation for Part 331 reads as follows:

Authority: Secs. 21 and 301, 81 Stat. 584, 588, 592, 593, 595 (21 U.S.C. 621, 661).

§ 331.2 [Amended]

2. The table in § 331.2 of the Federal meat inspection regulations (9 CFR 331.2) is amended as follows:

In the "State" column, "South Carolina" is added immediately below "Rhode Island."

In the "Effective date of application of Federal provisions" column, "February 22, 1982," is added on the line with "South Carolina."

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Further, Part 381 of the poultry products inspection regulations (9 CFR 381.221) is amended as follows:

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

Authority: Sec. 5(c) and 14, 71 Stat. 441, as amended (21 U.S.C. 454(c), 463.

§ 381.221 [Amended]

2. The table in § 381.221 of the poultry products inspection regulations (9 CFR 381.221) is amended as follows:

In the "State" column, "South Carolina" is added immediately below "Rhode Island."

In the "Effective date of application of Federal provisions" column, "February 22, 1982" is added on the line with "South Carolina."

Dr. Donald L. Houston, Administrator, FSIS, has determined that it is necessary to designate the State of South Carolina immediately in accordance with section 301(c) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act, in order to carry out the Secretary's responsibilities under the Acts.

Therefore, it does not appear that any additional relevant information would be made available to the Secretary by public participation in this rulemaking proceeding. Accordingly, under the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures are impracticable and contrary to the public interest.

Done at Washington, D.C., on January 15, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-1582 Filed 1-21-82; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL HOME LOAN BANK BOARD

[No. 82-11]

12 CFR Parts 563, 563c

Amortization Periods for Premiums, Discounts and Credits, and Treatment of Gains and Losses on the Sale of Real Estate, for Fiscal Years Ending on or After December 31, 1981

Dated: January 8, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board has authorized institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation ("insured institutions") to amortize premiums, discounts, and deferred acquisition credits relating to certain loans over a period not shorter than the lesser of the loans' contractual lives or ten years, and to recognize currently any profit on certain sales of real estate financed by loans by such institutions. The Board also has prescribed identical accounting treatment for sales of real estate by an insured institution's subsidiary service corporation(s). Finally, the Board has eliminated the regulatory provisions pertaining to amortization of discounts, charges, and credits recorded prior to January 1, 1972, since such regulatory provisions no longer have any application. The amendments will enable insured institutions and their subsidiary service corporations to reflect in their financial statements the results of real estate sales activities on a more realistic basis and on an equal footing with other entities engaging in similar activities.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Michael S. Joseph (202-377-6994) or Robert J. Pomeranz (202-377-6537), Office of Examinations and Supervision, or David J. Bristol (202-377-6461) or Kenneth F. Hall (202-377-6466), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On October 20, 1981, the Board proposed to amend § 563.23-1 of its regulations (12 CFR 563.23-1) to permit the amortization of premiums, discounts and credits on certain loans over a period not shorter than the loans' contractual lives or ten years, whichever is less, and to permit greater recognition of profit from the sale of real estate (FHLBB Res. No. 81-641; 46 FR 54567 (November 3, 1981)). The proposed amendments would have prescribed this accounting treatment for institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") ("insured institutions") and for their service corporations. Comments were accepted from the public through November 27, 1981.

The Board received thirty-two comments on the proposed rule. Of these, fourteen were from federally-chartered savings and loan associations, ten were from state-chartered savings and loans, six were from savings and loan trade associations, and the remaining two were from an accounting firm and a law firm. All of the commenters favored the proposal as being less restrictive, but approximately two-thirds of the commenters expressed concern with certain provisions. These expressions of concern are discussed below.

Amortization Periods for Premiums, Discounts and Credits

As proposed, the Board has amended paragraphs (a), (b) and (d) of § 563.23-1

to provide that discounts resulting from the purchase of a loan or acquisition credits subject to deferral (defined in subparagraph (g)(3) as certain consideration, other than the average interest provided by the loan contract, received by an insured institution for making a commitment or acquiring, making, refinancing or modifying a loan) shall be deferred and amortized to income over a period of not less than the remaining term to maturity of the loan or ten years, whichever is less. Previously, paragraphs (a), (b) and (d) provided for a minimum amortization period of ten years.

Deferral of these amounts is required because the Board views them as adjustments to the amount of interest directly provided for in the loan contract. Accordingly, the amounts are required to be amortized to income over a period that approximates the estimated actual average life of the mortgage loan portfolio, which, in the Board's view, is ten years.

However, because the Board has adopted regulations permitting federal institutions to increase substantially their investments in real estate loans secured by other than first mortgages and their investments in other types of loans, including balloon-payment loans, the contractual terms of these loans in many cases are or will be less than the ten-year minimum amortization period. Therefore, although the Board continues to view these deferred amounts as additional interest to be earned by the institution, the Board has reduced the minimum amortization period for premiums, credits and discounts on such loans to reflect its view that the actual lives of these loans will approximate their contractual lives. This approach was supported by the great majority of commenters.

The proposed regulation also would have prohibited the use of an amortization period of less than ten years if an institution, within six months of the date of a loan, made or acquired any additional loan to the same borrower with a remaining term to maturity exceeding ten years. The Board has retained this provision with one change—the six-month rule will apply only to loans secured by the same property. This change generally was supported by the commenters. The provision reflects the Board's view that loans secured by the same property made within six months of each other should be considered one loan for purposes of determining the appropriate amortization period for discounts and credits.

Finally, the proposed regulation would have provided that any premiums, credits and discounts should be included in the computation of a gain or loss upon the sale or payoff of a loan, provided that the institution had not made or acquired an additional loan(s) to the same borrower within six months of the origination date of the loan sold or paid off. The Board has adopted this provision, but has applied it only where the additional loan(s) is secured by the same property as is the loan sold or paid off. In this manner, the regulation excludes from consideration loans that clearly are not related to the loan sold or paid off by virtue of being secured by separate properties.

Simplification

When the accounting rules establishing the minimum amortization period were modified in 1972, the amendments retained the minimum amortization period applicable to loans originated, purchased, or sold prior to January 1, 1972. All amounts originated prior to January 1, 1972, were required to be amortized over a period of not less than seven years. Since all amounts deferred prior to 1972 have now been fully credited to income, the Board has eliminated the pre-1972 amortization provisions from the regulation.

Sale of Real Estate

The Board has amended § 563.23–1(f) to permit the recognition of profit from the sale of real estate owned by an insured institution, where the institution finances acquisition of the real estate, if the sole purpose of the loan is to finance the acquisition, the loan is secured by a first lien and conforms to the Board's lending regulations, and the institution has not made or acquired any other loan to the purchaser that is unsecured or secured by the real estate sold. Where the loan contains preferential terms, the regulation requires that the sales price be reduced to reflect the present value of the preferential terms. Section 563c.13 (12 CFR 563c.13) is also amended to prescribe similar accounting treatment for sales by a service corporation of an insured institution where such sales are financed either by the insured institution or by the subsidiary service corporation.

The proposed regulation would have differentiated between "permanent" and "non-permanent" investors. A "permanent" investor was characterized as someone who purchases real estate in anticipation of holding the real estate for an indefinite period of time either for personal use, in anticipation of realizing a profit from its operations, or for long-term tax benefits and appreciation of the real estate's value. On the other hand, a "non-permanent" investor was characterized as someone who purchases real estate in anticipation of a profit from its resale in a relatively short period of time. This profit could be derived from the construction of a building on the real estate or from substantial renovation of an existing structure.

The rationale for this distinction was that purchases of real estate by "non-permanent" investors inherently possess an element of speculation. Therefore, the likelihood of an institution reacquiring a property sold to a "non-permanent" investor was felt to be greater because of the possibility that the real estate would prove to be unsalable in the short term or that costs of carrying the property might be overly-burdensome for the investor. Many commenters, however, felt that establishing such a distinction would not provide a clear-cut standard for institutions to use in determining whether full recognition of profits was permissible, thus resulting in second-guessing by the Board's examination and supervisory staff. In addition, they felt the distinction would be unnecessary because lenders generally impose stricter underwriting standards for higher-risk loans and because generally accepted methods exist for accounting for such loans.

Although the Board does not believe that the distinction between "permanent" and "non-permanent" investors would require institutions to engage in analysis of a purchaser's intent, the Board has determined to replace the distinction with the conforming-loan standard described above. While this standard is somewhat more liberal than existing authoritative accounting literature, specifically the American Institute of Certified Public Accountants' Statement of Position #75–6 ("Questions Concerning Profit Recognition on Sales of Real Estate"), the Board notes that these principles are not consistently applied in accounting for profits from the sale of real estate by financial institutions. The Board also notes that the Financial Accounting Standards Board ("FASB") currently is reviewing the Statements of Position relating to real estate. The Board will review its regulation governing the appropriate treatment of profit from the sale of real estate when the FASB publishes its conclusions.

The final amendment eliminates the provisions of § 563.23–1(f) which provided that an insured institution may recognize profit from the sale of real estate only to the extent cash is received from the purchaser. These accounting rules have effectively prevented the full recognition of profit in any sale that is

financed by the insured institution. The rules were adopted at a time when the only typical real estate sales by an institution or its service corporation(s) were of real estate acquired as a result of foreclosure or otherwise in settlement of loans. They were based on the concept that it is unlikely that the sale of distressed properties can result in a profit and, therefore, to preclude artificial inflation of an institution's income, any profit realized should not be recognized until collected in cash.

However, many state-chartered institutions possess the power to purchase, develop and sell real estate in anticipation of profit. In addition, federal associations have been granted expanded authority to invest in service corporations that purchase, develop and sell real estate for profit (FHLBB Res. No. 80–488; 45 Fed. Reg. 56029 (1980)). Finally, it is not impossible to realize a profit on the sale of real estate acquired through foreclosure or other settlement of a loan. Since an institution's principal business activity is providing financing for the purchase and sale of real estate, the Board believes it is inconsistent to prevent an institution or its service corporation from recognizing the profit earned from the sale of real estate merely because the institution provides the financing for the sale.

Preferential Loan Terms

The final regulation, as proposed, also provides that, if loan terms more favorable than those available under an institution's established lending policies at the time of sale are granted in connection with the sale of real estate by either an institution or its subsidiary service corporation, the sale price must be reduced by the present value of such favorable terms in determining the amount of profit or loss resulting from the sale. The reduction must then be treated as a discount on the financing provided in connection with the sale and accounted for as such. In this manner, the regulation, while recognizing that financing provided by the seller of real estate plays an important role in consummating a sale and in establishing the resulting sales price, nevertheless distinguishes between an institution's real estate and financing activities. This codifies accounting treatment currently required by Memorandum R 23, published by the Board's Office of Examinations and Supervision.

Accounting for Profits on Past Sales of Real Estate

The final regulation expressly permits insured institutions to take into income, in the current accounting period, profits that previously had been deferred pursuant to § 563.23–1(f). Although the preamble to the proposed regulation noted this would be permitted, several commenters suggested this fact be stated in the body of the regulation. The Board notes that generally accepted accounting principles provide an adequate framework for institutions to follow in changing from one method of accounting for a particular type of transaction to another that is considered more appropriate. Thus, institutions will be permitted to show in current income the cumulative effect of applying the proposed rules to past transactions on which income is deferred pursuant to the former rules.

Final Regulatory Flexibility Analysis

The Board's objective in amending its accounting regulations is to enable FSLIC-insured institutions and their subsidiary service corporations to reflect the results of real estate sales activities in their financial statements on a more realistic basis and on an equal footing with other entities engaging in similar activities. The amendments also substantially reduce an existing difference between regulatory accounting principles and generally accepted accounting principles and the related duplicate bookkeeping burden currently imposed on these institutions.

These amendments are promulgated pursuant to the Board's authority under 402, 403 and 407 of the National Housing Act (12 U.S.C. 1725, 1726, 1730). The regulations apply to all institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, regardless of size, and impose no new reporting, recordkeeping or other compliance requirements. The amendments do not duplicate, overlap or conflict with any existing federal regulations.

Retroactive Application

The Board has determined to make the amendments effective as of December 31, 1981. This will permit institutions that have fiscal years ending on or after December 31, 1981, to use the new rules in accounting for sales of real estate that occurred or that will occur in those fiscal years. The Board believes that delay of the effective date of this regulatory action for 30 days after publication pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecesary and against the public interest because (1) this action relieves restriction, and (2) institutions should be permitted at the earliest possible time to obtain the benefits of accounting for sales of real estate in a manner that conforms more closely to generally accepted accounting principles.

Accordingly, the Federal Home Loan Bank Board hereby amends Parts 563 and 563c, Subchapter D, Chapter V of Title XII, *Code of Federal Regulations*, as set forth below

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. Revise § 563.23–1 to read as follows:

§ 563.23–1 Premiums, discounts charges, and credits with respect to loans; sale of real estate; and related items.

(a) *Purchase at a premium.* A premium paid by an insured institution in connection with acquisition of a loan may be charged off when paid or may be capitalized. If the premium is capitalized, it shall be amortized by charges to expense, at least semiannually and using any approved method of amortization, over a period not in excess of the remaining term of the loan or ten years, whichever is less, in the case of a single loan, or over a period not in excess of the weighted average of the remaining terms to maturity of the loans or ten years, whichever is less, in the case of a group of loans.

(b) *Purchase at a discount.* If an insured institution purchases a loan at a discount, the discount shall be deferred by a credit to an account descriptive of deferred income and shall thereafter be credited to income, at least semiannually and using any approved method, over a period of not less than ten years. However, if an insured institution purchases a loan and has not within six months of the date of purchase of the loan made or acquired any other loan to the same borrower secured by the same property and with a remaining term to maturity in excess of ten years, the discount may be credited to income, at least semiannually and using any approved method, over a period not shorter than the remaining term to maturity of the loan or ten years, whichever is less. In applying the provisions of this paragraph to the purchase of a group of loans, the amortization period shall not be shorter than the weighted average of the remaining terms to maturity of the loans or ten years, whichever is less. For purposes of this section, a loan shall be deemed to have been purchased at a discount if the price paid by the institution for the loan is less than the amount of the loan balance. Any charges by the purchaser in connection with the purchase of a loan shall be

deducted from the purchase price to determine the amount of the discount.

(c) *Charges.* All acquisition charges, as defined in paragraph (g) of this section, in connection with the making or acquisition of a loan by an insured institution, shall be charged to such institution's expense for the accounting period in which such charges are incurred and shall not be deferred beyond the end of such accounting period.

(d) *Credits deferred.* Each acquisition credit subject to deferral, as defined in paragraph (g) of this section, shall be deferred by a credit to an account descriptive of deferred income and shall thereafter be credited to income, at least semiannually and using any approved method, over a period of not less than ten years. However, if the remaining term to maturity of the loan is less than ten years and the institution has not within six months of the date of purchase of the loan made or acquired any other loan to the same borrower secured by the same property and with a remaining term to maturity in excess of ten years, the acquisition credit may be credited to income, at least semiannually and using any approved method, over a period not shorter than the remaining term of the loan. In applying the provisions of this paragraph to a group of loans, the amortization period shall not be shorter than the weighted average of the remaining terms to maturity of the loans.

(e) *Sale or payoff of loans.* If a loan has been sold or paid in full, the remaining balance of any capitalized premium, deferred acquisition credit or discount applicable to the loan and may be added to or deducted from (as appropriate) the book value of the loan and the profit or loss thereon shall be computed based on such adjusted amount, provided that the institution did not make or acquire any other loan secured by the same property to the borrower within six months of the date of origination of the loan sold or paid off. The resulting profit or loss shall then be accounted for in accordance with the applicable accounting principles.

(f) *Sale of real estate owned.* When an insured institution sells real estate, the institution's records shall disclose the book value of the real estate at the time of the sale and the price at which it was sold.

(1) If the sale results in a loss, the loss shall be charged to expense, or to an allowance account previously established for the loss, during the accounting period in which the loss was sustained.

(2) If the sale results in a profit and the institution has not made, acquired, or committed to make or acquire a loan for any purpose, to the purchaser, the profit may be recognized as income during the accounting period in which the sale occurs.

(3) If the sale results in a profit and the institution has made, acquired, or committed to make or acquire a loan the sole purpose of which is to finance the purchase of the real estate, the profit may be recognized during the accounting period in which the sale occurs only if (i) the loan is secured by a first lien on the real estate and conforms to the Board's regulations as to maturity, loan-to-value ratios, and other restrictions (12 CFR 545.6–2, 545.6–6) or to the regulations as to loans insured for guaranteed by a federal, state or local public entity (*e.g.*, 12 CFR 545.6–1, 545.6–11), and (ii) the institution has not made, acquired, or committed to make or acquire any other loan to the purchaser of the real estate that is unsecured or that is secured by that real estate. If the sale is financed with a loan and the institution has not met the requirements of this paragraph (f)(3), then the profit shall be deferred and credited to an account descriptive of unearned profit on the sale of real estate until the requirements are met.

(4) When preferential loan terms are granted in connection with the sale of real estate, the sales price shall be reduced to reflect the present value of such preferential terms, and the profit or loss shall be computed based on the reduced amount.

(5) An institution may take into income, in any fiscal year ending on or after December 31, 1981, profits that previously were deferred pursuant to the provisions of this paragraph as they existed prior to December 31, 1981.

(g) *Definitions.* For purposes of this section:

(1) The term "amount of the loan" means the face amount of the obligation executed by the primary obligor on a loan, except that with respect to a loan acquired by an insured institution such term means the principal balance of such loan at the time of its acquisition by such institution.

(2) The term "acquisition credit" means any consideration, other than the average interest provided by the loan contract, received by an insured institution for or in connection with the acquisition, making, refinancing, or modification of a loan plus any consideration received for making a loan commitment, whether or not an actual loan follows such commitment; the term does not include any amounts received and paid out by an insured institution to a third party (not an affiliate) for itemized initial charges in connection with the loan transaction, or any escrow fee received by an insured institution in connection with a sale which involves a related loan made by it, if the following requirements are met:

(i) The fee is based on the escrow services actually performed and is comparable in amount to the fee charged by other escrow agents located in the institution's normal lending territory for performing similar escrow services;

(ii) The borrower is informed of his freedom of choice in selecting a competent escrow agent to perform the escrow services; and

(iii) The related loan is not a refinancing or modification of an existing loan held by the institution and made to the same borrower or to an affiliate of such borrower.

(3) The term "acquisition credit subject to deferral" means, for loans closed on or after January 1, 1979, the amount of an acquisition credit in excess of

(i) The greater of: (A) fifty dollars, or

(B) Two and one-half percent of the amount of the loan, if the loan or commitment is for the purpose of construction, or

(C) Two percent of the amount of the loan, if the loan or commitment is for any other purpose; plus

(ii) Four hundred dollars, if, with respect to the loan, the insured institution uses its own employees to perform appraisal services or to perform attorney or closing functions, for which no escrow fee is received. In addition to the amounts which may be taken into current income under the foregoing provisions of this paragraph (g)(3), a nonrefundable fee received in cash in consideration for and at the time of execution of a bona fide forward loan commitment contract may be taken into current income, at the time of its receipt, in the following amount: one percent of such a loan commitment that will be outstanding for a six- to twelve-month term prior to the closing of the loan; one and one-half percent of a loan commitment that will be oustanding for a twelve- to eighteen-month term prior to the closing of the loan; or two percent of a loan commitment that will be oustanding for a term exceeding eighteen months prior to the closing of the loan. If a loan upon which there is such a loan commitment contract is closed prior to the expiration of the contract term, the institution by appropriate accounting entries shall remove from current income and credit to an account descriptive of deferred income an appropriate amount (based on the foregoing formula) of the fee

previously received and recorded as provided in the preceding sentence. Insured institutions shall keep records of forward loan commitment contracts and fees for such commitments that are received by it and are taken into current income or credited to deferred income.

(4) The term "acquisition charges" includes finders' fees, buying commissions, attorneys' fees, and brokerage fees paid by an insured institution in connection with the making or acquisition of a loan or commitment, but does not include a premium paid by such institution in connection with the purchase of a loan.

(5) The term "affiliate" means any person or company which controls, is controlled by, or is under common control with an insured institution within the meaning of subsection (a)(3) of section 408 of the National Housing Act, as amended.

(6) The term "book value" means the total amount invested in real estate less any related depreciation allowances or valuation reserves.

(7) The term "loss" means the amount by which the unpaid principal balance of the loan (net of unamortized premiums, discounts, or deferred acquisition credits) or the book value of the real estate exceeds, at the time such loan or real estate is sold, the sales price of such loan or real estate.

(8) The term "profit" means the amount by which the sales price of the loan or real estate exceeds, at the time such loan or real estate is sold, the unpaid principal balance of such loan (net of unamortized premiums, discounts, or deferred acquisition credits) or the book value of such real estate.

(9) The term "approved method" means any one of the following methods for computing amortization of a capitalized premium or for recognizing deferred income:

(i) "Straight-line" method, as described in § 1.167(b)–1 of the Federal income tax regulations (26 CFR 1.167(b)–1);

(ii) "Sum-of-the-years-digits" method, as described in § 1.167(b)–3 of the Federal income tax regulations (26 CFR 1.167(b)–3); and

(iii) "Level-yield" or "interest" method, by which income is debited or credited so as to yield, throughout the amortization period, a uniform rate of return on the investment after discount or premium.

PART 563c—ACCOUNTING REQUIREMENTS

2. Revise paragraph (b) of § 563c.13, to read as follows:

§ 563c.13 Accounting for investment in service corporation.

* * * * *

(b) For purposes of this section, when applying the provisions of § 563.23–1 of this Chapter, any loans made or committed to be made to the purchaser of the real estate, or any such loan acquired or committed to be acquired by the insured institution or any affiliate, as defined in § 563.23–1(g)(5), shall be considered as if they were made directly by the service corporation: *Provided,* that this paragraph shall not apply if not more than ten percent of the stock of the service corporation is owned by the insured institution that is providing the financing or that has subsequently acquired the mortgage or security property.

(Secs. 402, 403, 407 (12 U.S.C. 1725, 1726, 1730; 48 Stat. 1256, 1257, 1260), as amended. Reorg. Plan No. 3 of 1947, 12 FR 4891, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

James J. McCarthy,

Acting Secretary.

[FR Doc. 82–1667 Filed 1–21–82; 8:45 am]

BILLING CODE 6720–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

Space Transportation System; the Authority of the Space Transportation System (STS) Commander

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: National Aeronautics and Space Administration (NASA) is revising its final rule, 14 CFR Part 1214, Subpart 7, "Space Transportation System; The Authority of the Space Transportation System (STS) Commander," by adding a new paragraph (d) to § 1214.703 which states that if the Director of the Johnson Space Center determines that the Commander is unable to carry out command responsibilities, the Director shall relieve the Commander from command, and designate the pilot or another flight crew member as Commander.

DATES: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert T. O'Neil, 202–755–2424.

SUPPLEMENTARY INFORMATION: On March 7, 1980, NASA published its final rule 14 CFR Part 1214, Subpart 7 (45 FR 14845–14846), setting forth the Authority of the Space Transportation System (STS) Commander. At a hearing of the Committee on Science and Technology (which was held after the final rule was published), Congressman Fuqua expressed his concern about who would make the determination to relieve the Commander if the Commander was found to be psychologically or physically unable to make reentry or to complete the assigned mission. As a result of this hearing, NASA decided to amend the rules and make the Director of the Johnson Space Center responsible for relieving the Commander. Since this action is administrative and editorial in nature, notice and comment procedures are not required.

PART 1214—SPACE TRANSPORTATION SYSTEM

14 CFR Part 1214, Subpart 7, is amended by adding a new paragraph (d) to § 1214.703 reading as follows:

§ 1214.703 Chain of command.

* * * * *

(d) The determinations, if any, that a crew member in the chain of command is not able to carry out his or her command duties and is therefore to be relieved of command, and that another crew member in the chain of command is to succeed to the responsibilities and authority of the Commander, will be made by the Director of the Johnson Space Center.

(Pub. L. 85–568; 72 Stat. 426; 42 U.S.C. 2473, 2455; 18 U.S.C. 799; Art. VIII, TIAS 6347 (18 U.S.T. 2410)

Dated: December 24, 1981.

James M. Beggs,

Administrator.

[FR Doc. 82–1612 Filed 1–21–82; 8:45 am]

BILLING CODE 7510–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 1

Procedures for Implementation of the National Environmental Policy Act of 1969

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission is adopting new rules for implementing the procedural provisions of the National Environmental Policy Act. The rules provide that it is the Commission's policy to comply with the Council on Environmental Quality regulations (40 CFR Parts 1500–1508). The rules set forth supplementary definitions and procedures to be applied in conjunction with the Council's regulations.

EFFECTIVE DATE: February 22, 1982.

FOR FURTHER INFORMATION CONTACT: Jerold D. Cummins, Deputy Assistant General Counsel, Office of the General Counsel, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580 (202–523–1928).

SUPPLEMENTARY INFORMATION: The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, requires all federal agencies to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on proposals for legislation significantly affecting the quality of the human environment and on other major federal actions significantly affecting the quality of the human environment. The Council on Environmental Quality (CEQ) issued regulations to implement the procedural provisions of NEPA (codified at 40 CFR Part 1500–1508) under the direction of Executive Order No. 11991. These regulations require all agencies to prepare supplemental procedures as necessary to implement the regulations (§ 1507.3). Although it is the Commission's position that these regulations are not binding on it, the Commission's policy is to comply fully with the CEQ regulations unless it determines in a particular instance or for a category of actions that compliance would not be consistent with the requirements of law.

In the **Federal Register** of July 20, 1979 (45 FR 42712–14), the Commission proposed procedures to implement and supplement CEQ's regulations. Only one substantive comment was received. The commenter challenged that part of proposed rule § 1.82(a) which, like its counterpart in existing 16 CFR 1.82(d), construes the environmental impact provision of NEPA (42 U.S.C. 102(2)(C)) as not applying to law enforcement proceedings. The Commission in the past has rejected arguments that the impact statement requirements are applicable at any stage of a law enforcement proceeding. *Coca-Cola Co.*, 91 F.T.C. 517, 666–67 (1978), *order vacated and case remanded on other grounds*, 642 F.2d 1387 (D.C. Cir. 1981); *Jim Walter Corp.*, 91 F.T.C. 514, 516 (1970), *order vacated and case remanded on other grounds*, 625 F.2d 676 (5th Cir. 1980). The issue has been raised but not decided in other court proceedings. See, *e.g.*, *Gifford-Hill & Co.* v. *FTC*, 523 F.2d 730 (D.C. Cir. 1975); *Mobil Oil Corp.* v. *FTC*, 562 F. 2d 170 (2d Cir. 1977). As provided in the rules issued today, the Commission adheres to its view that Congress did not intend that the environmental impact statement requirement of section 102(2)(C) of NEPA be applicable to the bringing of law enforcement proceedings. This position is also set forth in CEQ Regulation § 1508.18(a). Ordinarily, final disposition of such matters, whether by adjudication or consent order proceedings, will not significantly affect the quality of the human environment. In the rare event that the Commission in such proceedings might actively contemplate final relief, or the promulgation of standards, which may have a significant environmental effect, the rules provide (§ 1.82(a)) that the Commission will, when consistent with the requirements of law, provide for the preparation of an environmental assessment or an environmental impact statement or such other action as will permit the Commission to assess alternatives with a view toward avoiding or minimizing any adverse effect upon the environment.

Text of the Rules: Part 1 of 16 CFR Chapter I, Subpart I, is revised to read in its entirety as follows:

PART 1—GENERAL PROCEDURES

* * * * *

Subpart I—Procedures for Implementation of the National Environmental Policy Act of 1969

Sec.

1.81 Authority and incorporation of CEQ regulations.
1.82 Declaration of policy.
1.83 Whether to commence the process for an Environmental Impact Statement.
1.84 Draft Environmental Impact Statements: Availability and comment.
1.85 Final Environmental Impact Statements.
1.86 Supplemental statements.
1.87 NEPA and agency decisionmaking.
1.88 Implementation procedures.
1.89 Effect on prior actions.

* * * * *

Subpart I—Procedures for Implementation of the National Environmental Policy Act of 1969

Authority: 15 U.S.C. 46(g), 42 U.S.C. 4371 *et seq.*

§ 1.81 Authority and Incorporation of CEQ Regulations.

This subpart is issued pursuant to 102(2) of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4371 *et seq.*). Pursuant to Executive Order 11514 (March 5, 1970, as amended by Executive Order 11991, May 24, 1977) the Council on Environmental Quality (CEQ) has issued comprehensive regulations for implementing the procedural provisions of NEPA (43 FR 55978–56007) ("CEQ Regulations"). Although it is the Commission's position that these regulations are not binding on it, the Commission's policy is to comply fully with the CEQ Regulations unless it determines in a particular instance or for a category of actions that compliance would not be consistent with the requirements of law. With this caveat, the Commission incorporates into this subpart the CEQ Regulations. The following are supplementary definitions and procedures to be applied in conjunction with the CEQ Regulations.

§ 1.82 Declaration of policy.

(a) Except for actions which are not subject to the requirements of section 102(2)(C) of NEPA, no Commission proposal for a major action significantly affecting the quality of the human environment will be instituted unless an environmental impact statement has been prepared for consideration in the decisionmaking. All relevant environmental documents, comments, and responses as provided in this subpart shall accompany such proposal through all review processes. "Major actions, significantly affecting the quality of the human environment" referred to in this subpart "do not include bringing judicial or administrative civil or criminal enforcement actions" CEQ Regulation (40 CFR 1508.18(a)). In the event that the Commission in an administrative enforcement proceeding actively contemplates the adoption of standards or a form of relief which it determines may have a significant effect on the environment, the Commission will, when consistent with the requirements of law, provide for the preparation of an environmental assessment or an environmental impact statement or such other action as will permit the Commission to assess alternatives with a view toward avoiding or minimizing any adverse effect upon the environment.

(b) No Commission proposal for legislation significantly affecting the quality of the human environment and concerning a subject matter in which the Commission has primary responsibility will be submitted to Congress without an accompanying environmental impact statement.

(c) When the Commission finds that emergency action is necessary and an environmental impact statement cannot be prepared in conformance with the CEQ Regulations, the Commission will consult with CEQ about alternative arrangements in accordance with CEQ Regulation (40 CFR 1506.11).

§ 1.83 Whether to commence the process for an Environmental Impact Statement.

(a) The Bureau responsible for submitting a proposed rule, guide, or proposal for legislation to the Commission for agency action shall, after consultation with the Office of the General Counsel, initially determine whether or not the proposal is one which requires an environmental impact statement. Except for matters where the environmental effects, if any, would appear to be either (1) clearly significant and therefore the decision is made to prepare an environmental impact statement, or (2) so uncertain that environmental analysis would be based on speculation, the Bureau should normally prepare an "environmental assessment" CEQ Regulation (40 CFR 1508.9) for purposes of providing sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact. The Bureau should involve environmental agencies to the extent practicable in preparing an assessment. An environmental assessment shall be made available to the public when the proposed action is made public along with any ensuing environmental impact statement or finding of no significant impact.

(b) If the Bureau determines that the proposal is one which requires an environmental impact statement, it shall commence the "scoping process" CEQ Regulation (40 CFR 1501.7) except that the impact statement which is part of a proposal for legislation need not go through a scoping process but shall conform to CEQ Regulation (40 CFR 1506.8). As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process, the Bureau shall publish a notice of intent as provided in CEQ Regulations (40 CFR 1501.7 and 1508.22).

(c) If, on the basis of an environmental assessment, the determination is made not to prepare a statement, a finding of "no significant impact" shall be made in accordance with CEQ Regulation (40 CFR 1508.3) and shall be made available to the public as specified in CEQ Regulation (40 CFR 1506.6).

§ 1.84 Draft environmental impact statements: Availability and comment.

Except for proposals for legislation, environmental impact statements shall be prepared in two stages: Draft statement and final statement.

(a) *Proposed rules or guides.* (1) An environmental impact statement, if deemed necessary, shall be in draft form at the time a proposed rule or guide is published in the **Federal Register** and shall accompany the proposal throughout the decisionmaking process.

(2) The major decision points with respect to rules and guides are:

(i) Preliminary formulation of a staff proposal;

(ii) The time the proposal is initially published in the **Federal Register** as a Commission proposal;

(iii) Presiding officer's report (in trade regulation rule proceedings);

(iv) Submission to the Commission of the staff report or recommendation for final action on the proposed guide or rule;

(v) Final decision by the Commission. The decision on whether or not to prepare an environmental impact statement should occur at point (i). The publication of any draft impact statement should occur at point (ii). The publication of the final environmental impact statement should occur at point (iv).

(b) *Legislative proposals.* In legislative matters, a legislative environmental impact statement shall be prepared in accordance with CEQ Regulation (40 CFR 1506.8).

(c) In rule or guide proceedings the draft environmental impact statement shall be prepared in accordance with CEQ Regulation (40 CFR 1502.9) and shall be placed in the public record to which it pertains; in legislative matters, the legislative impact statement shall be placed in a public record to be established, containing the legislative report to which it pertains; these will be available to the public through the Office of the Secretary and will be published in full with the appropriate proposed rule, guide, or legislative report; such statements shall also be filed with the Environmental Protection Agency's (EPA) Office of Environmental Review (CEQ Regulation (40 CFR 1506.9) for listing in the weekly **Federal Register** Notice of draft environmental impact statements, and shall be circulated, in accordance with CEQ Regulations (40 CFR 1502.19, 1506.6) to appropriate federal, state and local agencies.

(d) Forty-five (45) days will be allowed for comment on the draft environmental impact statement, calculated from the date of publication in the EPA's weekly **Federal Register** list of draft environmental impact statements. The Commission may in its discretion grant such longer period as the complexity of the issues may warrant.

§ 1.85 Final environmental impact statements.

(a) After the close of the comment period, the Bureau responsible for the matter will consider the comments received on the draft environmental impact statement and will put the draft statement into final form in accordance with the requirements of CEQ Regulation (40 CFR 1502.9(b)), attaching the comments received (or summaries if response was exceptionally voluminous).

(b) Upon Bureau approval of the final environmental impact statement the final statement will be

(1) Filed with the EPA;

(2) Forwarded to all parties which commented on the draft environmental impact statement and to other interested parties, if practicable;

(3) Placed in the public record of the proposed rule or guide proceeding or legislative matter to which it pertains;

(4) Distributed in any other way which the Bureau in consultation with CEQ deems appropriate.

(c) In rule and guide proceedings, at least thirty (30) days will be allowed for comment on the final environmental impact statement, calculated from the date of publication in the EPA's weekly **Federal Register** list of final environmental impact statements. In no event will a final rule or guide be promulgated prior to ninety (90) days after notice of the draft environmental impact statement, except where emergency action makes such time period impossible.

§ 1.86 Supplemental statements.

Except for proposals for legislation, as provided in CEQ Regulation (40 CFR 1502.9(c)), the Commission shall publish supplements to either draft or final environmental statements if: (a) The Commission makes substantial changes in the proposed action that are relevant to environmental concerns; or (b) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action and its impacts. In the course of a trade regulation rule proceeding, the supplement will be placed in the rulemaking record.

§ 1.87 NEPA and agency decisionmaking.

In its final decision on the proposed action or, if appropriate, in its recommendation to Congress, the Commission shall consider all the alternatives in the environmental impact statement and other relevant environmental documents and shall prepare a concise statement which, in accordance with CEQ Regulation § 1505.2, shall

(a) Identify all alternatives considered by the Commission in reaching its decision or recommendation, specifying the alternatives which were considered to be environmentally preferable;

(b) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not.

§ 1.88 Implementing procedures.

(a) The General Counsel is designated the official responsible for coordinating the Commission's efforts to improve environmental quality. He will provide assistance to the staff in determining when an environmental impact statement is needed and in its preparation.

(b) The Commission will determine finally whether an action complies with NEPA.

(c) The Directors of the Bureaus of Consumer Protection and Competition will supplement these procedures for their Bureaus to assure that every proposed rule and guide is reviewed to assess the need for an environmental impact statement and that, where need exists, an environmental impact statement is developed to assure timely consideration of environmental factors.

(d) The General Counsel will establish procedures to assure that every legislative proposal on a matter for which the Commission has primary responsibility is reviewed to assess the need for an environmental impact statement and that, where need exists, and environmental impact statement is developed to assure timely consideration of environmental factors.

(e) Parties seeking information or status reports on environmental impact statements and other elements of the NEPA process, should contact the Assistant General Counsel for Litigation and Environmental Policy.

§ 1.89 Effect on prior actions.

It is the policy of the Commission to apply these procedures to the fullest extent possible to proceedings which are already in progress.

By direction of the Commission dated January 5, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 82-1546 Filed 1-21-82; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33-6375, File No. S7-890]

Automatic Effectiveness of Post-Effective Amendments Filed by Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of amendments to rule.

SUMMARY: The Securities and Exchange Commission is adopting today amendments to the rule governing automatic effectiveness of post-effective amendments to registration statements filed by registered open-end management investment companies and unit investment trusts, other than insurance company separate accounts. The amendments provide that, under certain conditions, the filing of a post-effective amendment containing a prospectus during the pendency of a prior post-effective amendment relating to the same prospectus would not prevent the prior amendment from becoming effective automatically. The Commission is adopting these amendments primarily to facilitate the process by which an open-end investment company updates its prospectus in order to use the prospectus as the equivalent of an annual report to shareholders.

EFFECTIVE DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Jackson, Special Counsel, (202) 272-2115 or Susan P. Hart, Attorney, (202) 272-2098, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On July 14, 1981 the Commission published for comment amendments to paragraphs (b) and (d) of rule 465 [17 CFR 230.465] under the Securities Act of 1933 ("1933 Act") [15 U.S.C. 77a et seq.].[1] The Commission received two comment letters relating to the proposal. Both commentators supported the proposed amendments, however, each suggested additional changes to the rule. The additional revisions suggested by the commentators have been addressed by the Commission in a release proposing a new rule, 466, under the 1933 Act and additional amendments to rule 465.[2] The Commission today is adopting the proposed amendments without change.

The amendments to rule 465(d) provide that the filing of a post-effective amendment containing a prospectus during the pendency of a prior post-effective amendment relating to the same prospectus would not suspend the sixty-day waiting period initiated by the filing of the prior amendment, provided that the subsequent amendment is filed pursuant to paragraph (b) of rule 465 and that it designates as its effective date the same day as the anticipated effective date of the prior filing. Paragraph (b) of rule 465, as amended, makes the subsequent amendment eligible for filing under that provision.

The amendments to rule 465 permit an investment company to file a post-effective amendment under paragraph (a) which contains an updated narrative portion of its prospectus but no updated financial statements, and then, before such amendment has become effective, to file a subsequent post-effective amendment pursuant to paragraph (b) containing updated financial statements in addition to the updated narrative. The two amendments would become effective simultaneously, the same day as the anticipated effective date of the amendment filed under paragraph (a). These changes are intended to facilitate the process by which an investment company brings its prospectus up to date when it has experienced a material event requiring disclosure under paragraph (a) but does not have complete or updated financial statements sixty days prior to the desired date of effectiveness.

Any subsequent amendment filed pursuant to paragraph (b) of rule 465, of course, must meet the criteria set forth in the amended rule for filing pursuant to that section. When a post-effective amendment is filed under paragraph (a) and the registrant intends to file an amendment under paragraph (b) to update the financial statements in the prospectus while the filing under paragraph (a) is still pending, the registrant should state in a cover letter that a post-effective amendment to update the financial statements will be filed pursuant to paragraph (b) and on what approximate date the registrant anticipates that such amendment will be filed. In addition, to facilitate the review process, the registrant should state in a cover letter accompanying the subsequent filing under paragraph (b) that it is filed for the purpose of updating the financial statements of a prospectus for which a post-effective amendment is pending under paragraph (a), and the date on which the post-

[1] Securities Act Release No. 6327 (July 8, 1981) [46 FR 36195, July 14, 1981]

[2] Securities Act Release No. 6376 published under rules and regulations in this issue.

effective amendment pursuant to paragraph (a) was filed.

The text of the proposed amendments has not been changed and the Commission hereby adopts them as set forth below:

By the Commission.

January 11, 1982.

George A. Fitzsimmons,

Secretary.

Text of Amendments to Rule 465

Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By revising the introductory text of paragraphs (b), (b) (2) and (3), and paragraph (d) of § 230.465 to read as follows:

§ 230.465 Effective date of post-effective amendments filed by certain registered investment companies.

* * * * *

(b) Except as otherwise provided in this section, a post-effective amendment to a registration statement filed by a registered open-end management investment company or unit investment trust, other than a registered separate account as defined in section 2(a)(37) of the Investment Company Act of 1940 [15 U.S.C. 80a–2(a)(37)], shall become effective on the date upon which it is filed with the Commission, or such later date designated by the registrant on the facing sheet of the amendment, which date shall be not later than 20 days after the date on which the amendment is filed, provided that the following conditions are met:

* * * * *

(2) Any prospectus filed as a part of such amendment does not include disclosure relating to any of the following events to the extent that such events have occurred since the effective date of the registrant's registration statement or the effective date of its most recent post-effective amendment thereto which included a prospectus, whichever is later, unless such events are disclosed in a post-effective amendment filed pursuant to paragraph (a) of this section which has not yet become effective:

* * * * *

(3) The registrant represents that no material event requiring disclosure in the prospectus, other than one listed in paragraph (b)(1) of this section, has occurred since the latest of the following three dates: (i) the effective date of the registrant's registration statement; (ii) the effective date of its most recent post-effective amendment to its registration statement which included a prospectus; or (iii) the filing date of a post-effective amendment filed pursuant to paragraph (a) of this section which has not yet become effective; and

* * * * *

(d)(1) Except as provided in paragraph (d)(2) of this section, a post-effective amendment which includes a prospectus shall not become effective pursuant to paragraph (a) of this section if a subsequent post-effective amendment relating to such prospectus is filed before such amendment becomes effective.

(2) A post-effective amendment which includes a prospectus shall become effective pursuant to paragraph (a) of this section notwithstanding the filing of a subsequent post-effective amendment relating to such prospectus, *Provided,* That such subsequent amendment is filed pursuant to paragraph (b) of this section, *And provided further,* That such subsequent amendment designates as its effective date the date on which the prior post-effective amendment shall become effective pursuant to paragraph (a). If another post-effective amendment relating to the same prospectus is filed pursuant to paragraph (a) of this section before the prior amendments filed pursuant to paragraphs (a) and (b) of this section have become effective, neither the prior amendment filed pursuant to paragraph (a) nor the amendment filed pursuant to paragraph (b) shall become effective pursuant to this section.

* * * * *

Statutory Authority

The Commission hereby adopts amendments to rule 465 pursuant to the provisions of sections 7, 8 and 19(a) of the Securities Act of 1933 [15 U.S.C. 77g, 77h and 77s(a)].

[FR Doc. 82-1585 Filed 1-21-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulation No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Eligibility; Amount of Benefits; Residence and Citizenship

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: We are revising and reorganizing our general rules on eligibility (Subpart B) under the Supplemental Security Income (SSI) program. These rules describe who may get SSI benefits, how long a person's eligibility lasts, and the reasons why a person who would otherwise be eligible for SSI benefits might not get them. We have also established a new Subpart P in which we state our rules on residence and citizenship.

We have determined that these regulations do not meet the criteria for a major regulation specified in Executive Order 12291.

EFFECTIVE DATE: These regulations are effective January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Rita Hauth, Legal Assistant, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–7112.

SUPPLEMENTARY INFORMATION: We published the notice of proposed rulemaking (NPRM) covering the recodification of Subpart B, the addition to Subpart D, and the new Subpart P on September 4, 1980 (45 FR 58563). A correction of a typographical error was published on September 16, 1980 (45 FR 61315). These final regulations also include the rules on redeterminations of eligibility published with interim effect on November 7, 1979 (44 FR 64402). Comments received on these publications are discussed later in this preamble.

We have retitled, rearranged, and rewritten the rules in Subpart B to simplify, and clarify the rules that have been in effect. In addition, we moved rules on benefit amounts which were in Subpart B to Subpart D where similar rules are covered and we created a new Subpart P for the specific rules on residence and citizenship. On October 29, 1981, we published an NPRM at 46 FR 53449 which proposes to change sections of prior regulations to reflect that, in April 1982, determinations of eligibility will be on a monthly basis rather than a quarterly basis. The change is required by section 2341 of Pub. L. 97–35 which establishes retrospective monthly accounting. The final regulations to implement retrospective monthly accounting will include technical changes to make it conform with the rearranged sections in this final rule on eligibility.

Definitions

We have added a new § 416.201 to define terms that are used throughout Subpart B. We use the term "resident" rather than "inmate" to identify

individuals who live in public institutions. We have clarified the definition of "resident of a public institution" to make it clear that an individual need not receive the treatment and services provided by an institution in order to be a resident. The definition also states that an individual is a resident regardless of whether the institution receives payment for whatever it provides. These definitions have been long standing policy but were not clearly stated in previous regulations.

The Federal Court of Appeals in *Levings* v. *Califano* held that the beneficiary did not meet the definition of an inmate of a public institution and was therefore eligible for SSI benefits because she resided there voluntarily and paid for any services the institution provided. SSA complied with the decision of the court for this particular case but has not changed existing policy for other beneficiaries in public institutions. We do not believe that Congress intended such a restrictive definition of "inmate". We believe that Congress intended that SSI benefits not be paid to individuals in public institutions whose needs were already being met by other public funds or by some other source. We, therefore, published a ruling of non-acquiescence in April 1980 (SSR 80–11c (Cumulative Edition 1980)). We further discuss our use of the term "resident" and non-payment of benefits to individuals who live in public institutions later in this preamble in our response to comments received following publication of the NPRM.

Initial Determinations and Redeterminations of SSI Eligibility

Section 416.203 explains what happens when a person applies for SSI benefits and when eligibility begins. Section 416.204 explains how and when we conduct redeterminations to make sure that a person is still eligible for benefits. This section includes the changes made by the interim rules published November 7, 1979 (44 FR 64402).

Reasons Why Persons May Not Get SSI Benefits for Which They Are Otherwise Eligible

Sections 416.210 through 416.214 explain that persons may not receive SSI benefits if: (1) They do not apply for all other benefits for which they may be eligible, (2) they are residents of a public institution, (3) they do not accept vocational rehabilitation services, (4) they (the disabled only) are medically determined drug addicts or alcoholics and do not accept or follow treatment, or (5) they leave the United States for a calendar month or 30 consecutive days. All of these rules are consistent with the purpose of the Supplemental Security Income program—to establish a national program to provide income to aged, blind, or disabled residents of the United States who have limited income and resources. Persons having a right to another kind of income are expected to do whatever is necessary to get it. Beneficiaries are also expected to do what they can to overcome the handicaps of disability, alcoholism, or drug addiction.

Individuals who are residents of public institutions throughout a month are not eligible for SSI benefits because of a specific provision in the statute. In defining "throughout a month" previous regulations provided that a resident had to remain in an institution continuously for 24 hours a day. We omitted the "24 hours a day" in these regulations to make the rule conform to the current practice of encouraging residents to engage in recreational and therapeutic activities outside the institution.

Qualified Individuals and Essential Persons

The rules in §§ 416.220 through 416.224 apply only to individuals who received State assistance payments for the aged, blind, or disabled for December 1973. Some of these individuals had received an increased amount of State assistance to provide for someone to live with them and give them needed care and attention. These persons may continue to receive an additional amount along with their SSI benefits. We call a person to whom we are paying SSI benefits under these circumstances a "qualified individual" and we call the one providing the necessary care an "essential person". The rules describe how both are affected under the SSI Program and what happens if a person no longer has an essential person.

Rate of SSI Benefit Payment for Certain Eligible Persons in Medical Care Facilities

Persons in medical care facilities (hospitals, skilled nursing facilities, intermediate care facilities) where Medicaid pays over 50 percent of their costs may be eligible for SSI benefits at a reduced rate. These rules were formerly located in Subpart B but are being moved to Subpart D, "Amount of Benefits" so that all information on benefit rates is in a single location.

Residence and Citizenship

We made a new Subpart P for the rules relating to residence and citizenship for SSI purposes. We have relocated these rules to give them equal emphasis with other eligibility requirements. We have retitled, rearranged, and rewritten them for greater clarity. We have also expanded the rules to include information that has been part of operating instructions. Since publication of the NPRM we have renumbered sections in this subpart to separate the subjects discussed and to provide for any future insertions that may be required by legislation or other policy changes.

To be eligible for SSI, individuals must reside in the United States (the 50 States, the District of Columbia, and the Northern Mariana Islands). In § 416.1603 we list kinds of evidence that prove residence in the United States. In response to a comment, we explain that an address in the United States may be sufficient to establish residence but that evidence will be required if a question arises. In response to another comment received following publication of the NPRM we have added § 416.1605 to explain that an individual must reside in the United States for at least 30 days in a row to establish or reestablish eligibility for SSI benefits. This rule was only in Subpart B in the NPRM and the rules in Subpart P were incomplete.

The statute also requires that an individual must be a citizen or national of the United States or have been admitted for permanent residence or be permanently residing in the United States under color of law to be eligible for SSI benefits. Section 416.1610 lists the kinds of evidence that prove citizenship and explains how residents of the Northern Mariana Islands establish that they are citizens of the United States. Section 416.1615 lists the kinds of evidence necessary to prove admission for permanent residence in the United States.

Section 416.1618 lists the kinds of evidence that prove permanent residence in the United States under color of law. These are principally documents issued by the Immigration and Nationalization Service (INS). In addition, permanent residence under color of law is established by proof of an individual's presence in the United States both before and continuously after June 30, 1948. These guidelines have been used by personnel in social security offices but all were not included in regulations.

Comments Received Following Publication of the Notice of Proposed Rulemaking (Published September 4, 1980 (45 FR 58563))

We received comments from four legal services, three State offices, two social service agencies, and one university department of gerontology. The commenters approved the clear language and the reorganization of the regulations. Each questioned one or more provisions of the regulations or suggested improvements. We have arranged the comments and our responses in the same order as the sections of the regulations and have cited the appropriate sections in the remarks or following the comment.

Comment. Five commenters, legal services and social service agencies, object to the rules on non-payment of SSI benefits to individuals who live in public institutions. Several cited *Levings* v. *Califano* in which the court ruled that an individual was not an "inmate" of a public institution because she paid for her stay in the institution. Most of the commenters also objected to the substitution of "resident" for "inmate" as they believed it to be an attempt to circumvent the court decision. Some suggested that publication of the revised rules should be deferred pending the Supreme Court decision on *Wilson* v. *Harris* (now *Schweiker* v. *Wilson*). One commenter said that these rules constitute a policy change and, therefore, should not be included in a recodification of regulations. (§§ 416.201 and 416.211)

Response. The Social Security Administration has applied the rules as stated in these regulations since the SSI program began in 1974. On August 9, 1973, the Commissioner of Social Security issued a decision which stated the policy and explained its basis as follows:

> * * * strong consideration was given to modifying the definition somewhat to allow an exception from "inmate" status for individuals who are in public institutions but paying for the cost of their care with title XVIII (Medicare) benefits, private insurance benefits, personal or family funds * * *. This would place the individual on par with one paying his own way in a private institution. However, we are not proposing this modification because of the general concern * * * that making supplemental security income payments to a person who is in a public institution for a full calendar month or longer would not aid the recipient but would in fact aid only the public institution which would use the benefits to offset its costs in maintaining the individual. Such an institution often establishes its charges for a needy individual based on the income available to that individual. Consequently, should the individual be eligible for a supplemental security income payment, the institutional charge would be greater than if such payment was not available and the program benefits would accrue to the institution and not the recipient. * * *

SSA continues to believe that this policy properly implements the statute. American Heritage Dictionary defines "inmate" as: "1. a resident in a building or dwelling. 2. A person confined to an institution such as a prison, hospital, or asylum." Webster's unabridged dictionary gives similar definitions with the third, and last, relating to confinement. Thus, "inmate" and "resident" can have the same meaning. Use of one or the other does not change the impact of the rules but "resident" imparts more dignity to the individual. It should also be noted that while section 1611(e)(1)(A) of the Act refers to "inmates," the exception to the definition of public institution in section 1611(e)(1)(C) refers to those persons as "residents". Thus, Congress has used "inmate" and "resident" interchangeably in the same section.

Since publication of the NPRM the Supreme Court has rendered its decision on *Schweiker* v. *Wilson* (101 S. Ct. 1074 (1981)). This case concerned Medicaid eligibility and payment of reduced benefits ($25 per month) to certain individuals in public mental institutions. The court held that sections 1611(e)(1)(A) and (B) of the Social Security Act are constitutional, that payment of the $25 reduced benefit can properly be limited to individuals who are in public mental institutions and are supported by Medicaid. The opinon of the court does not affect these regulations.

While not applicable to these particular rules, a recodification of regulations is a proper vehicle for changes in policy. SSA publishes recodifications of regulations as notices of proposed rulemaking so that interested persons can comment before the final rules are drafted and published.

Comment. A legal service objects to the filing of an application as a requirement for eligibility. They suggest that the need to file be located with the applications rules. (§ 416.202)

Response. An individual cannot become eligible for SSI benefits unless an application is filed with the Social Security Administration. The previous omission of this as a requirement for eligibility has raised questions. Under the law benefits are paid on the basis of an application.

Comment. A legal service asks that the regulation be expanded to include a statement that income received prior to application is not to be considered in determining eligibility. (§ 416.203)

Response. We explain in § 416.203 what periods are considered when individuals apply for SSI. If they apply in the first month of a calendar quarter eligibility is determined for the quarter. If they apply in the second or third month of a quarter, eligibility is determined on a monthly basis in that quarter beginning with the month of application. Thus, income received prior to the month of application is not income as of the month of application. Income received in or after the month of application is counted as income. The rules on income are explained in detail in Subpart K of Part 416 of the Code of Federal Regulations. If income was received prior to the month or quarter of application and is still available to the individual, it is a resource and may affect eligibility. Rules on resources are in Subpart L of these regulations.

Comment. A State suggested that redetermination plans and schedules should be a mutual effort between SSA and the States. (§ 416.204)

Response. We recognize that SSA and States share interest in preventing payment errors but a mutual effort would be impractical. As we explain in our response to comments in the next section of this preamble, the selection of redeterminations is a computer process and is on both a regional and national basis. The experiences of the States within a region are considered and the selection is pinpointed to an area even though not to individual States. In any event, annual redeterminations remain the standard with only those beneficiaries likely to have little payment error scheduled less frequently (at three-year intervals).

Comment. A State questions the rule in § 416.210 which states that individuals need not reapply for other benefits if they applied in the past and the reasons they were turned down have not changed. The State believes that individuals should always be required to reapply for other benefits since the rules for the other benefits may change. They suggest a time limit, for example, that indivdiuals who have been denied benefits within a year need not reapply.

Response. If there is any possibility of a change in eligibility rules for other benefits, individuals are required to reapply. The exception to having to reapply is limited to the kinds of situations that do not change.

Social Security office employees are informed about changes in Federal programs such as railroad retirement

and veterans' programs and know whether reapplication could be productive.

We believe a time limit would be impractical. Some eligibility requirements may have changed recently and others may never change.

Comment. A State believes that there is a conflict between the rules on essential persons and those on a temporary absence for medical treatment. They ask how an essential person's increment is paid if the qualified individual is temporarily, but throughout a month, receiving treatment in an institution and supported by Medicaid. (§§ 416.221–416.223, and 416.414)

Response. If a qualified individual is in an institution throughout a month and is supported by Medicaid, he or she is eligible to receive only the reduced benefit of $25 for that month. The individual does not need the services of the essential person and the increment is not added to the $25. The qualified person can again receive the essential person increment on returning from the institution to the former living arrangement. The essential person does not receive a payment directly.

Comment. The institute of gerontology and a legal service question the need for an applicant to prove residence in the United States. Both point out that many individuals live with others and cannot supply any of the kinds of evidence listed in § 416.1603.

Response. We have revised this section to state that an address in the United States may be sufficient to establish residence in the United States. This has been the existing policy and we did not intend to change it. We wanted to spell out what kinds of evidence will establish residence if a question arises. Residence in the United States is a statutory requirement for eligibility so it must be established. The information some individuals give us raises questions as to where they actually live.

Comments. A State Department of Social Services suggests that the 30-day rule for residence in the United States be stated in Subpart P (Residence and Citizenship) in addition to Subpart B (Eligibility). (§ 416.1602)

Response. We agree that the rules on residence and presence in the United States should be covered in Subpart P so we have added § 416.1605. This section states that an individual must live in the United States for at least 30 days in a row to be considered a resident. It also explains the effects of absence from and return to the United States.

Comments Received Following Publication of Interim Regulations on Redeterminations of Eligibility (Published November 7, 1979 (44 FR 64403))

We received comments from four State offices and a legal service. All approved of extending the period between redeterminations but raised questions or suggested some changes. We do not cite sections of regulations in this section since the comments are general.

Comment. Several States and a legal aid service suggested that the criteria for scheduling redeterminations be made available to States and the public. Some also suggested that beneficiaries be advised as to when to expect a redetermination.

Response. The scheduling of redeterminations is a highly sophisticated computer process similar to quality control programs set up by a number of States. Error profiles are developed each year for each region. Redeterminations are scheduled depending on the error profiles and releases are staggered over the year. After an initial application, redeterminations will be scheduled within three to eleven months. Thereafter, the general rule is that redeterminations will be conducted annually, not necessarily in the anniversary month because of the computer process selections. A small percentage of beneficiaries now have redeterminations less frequently because they are in situations already identified by the profile process as having low payment errors. Even some of these are scheduled annually if the individual record includes a complicating factor.

More experience with error profiles is necessary before other low error profiles can be determined to justify less frequent redeterminations.

The complex process makes it impossible to foretell when an individual redetermination will be scheduled. Interviewers in social security offices explain the general rules so that beneficiaries know what to expect.

Comment. A State Department of Administration suggested that annual redeterminations be eliminated, that all be scheduled on the basis of the likelihood of error or on receipt of information that suggests a change in eligibility.

Response. SSA does schedule redeterminations on the basis of the likelihood of error. Those records likely to be subject to error are scheduled annually; those less likely to produce errors are scheduled every three years. Annual contacts have been very productive in revealing changes in circumstances that affect benefit payments. Many beneficiaries do not understand or remember what changes in their circumstances affect their benefits. The annual contacts may also be helpful to beneficiaries who do not keep up with various other programs that provide needed services.

Comment. A State suggested that exchange of information between SSA and States should be timely and accurate. This State also suggested that eligibility redeterminations for title XIX (Medicaid) and tile XX (social services) be revised to reduce State administrative costs.

Response. SSA exchanges information with States as timely and accurately as possible. There is a continuing effort to improve this exchange, to make it more valuable to Federal and State offices. SSA does not administer title XIX or title XX eligibility redeterminations. Any problem areas with SSA should be brought to our attention and those in other program areas should be brought to the attention of the appropriate program offices. We need to know of problems to be able to correct them.

Comment. A State recommends that SSA appraise its functions in regard to initial determinations and redeterminations to reduce errors. It also recommends the development of "error prone" criteria.

Response. SSA maintains on-going appraisal programs in all its operations with particular attention to SSI cases. Gathering data takes time and experience and we are accumulating it. The development of the error profiles and the adoption of the computer process for scheduling redeterminations are major steps in our efforts and should reduce errors.

Comments. A State Department of Public Health asks that SSA collect more complete medical resource information at initial filing or on redeterminations.

Response. Review of medical data is not part of the redetermination process described in these regulations. When an applicant is found to be disabled and eligible for SSI benefits the nature and extent of the disability determines when a review of the disabling condition will be scheduled. We call this a continuing disability investigation. Redeterminations as they apply to Subpart B regulations are reviews of eligibility other than the disabling condition. It is possible for a redetermination and a continuing disability investigation to coincide and

the necessary information for both will be obtained at the same time but subsequent actions differ. A redetermination may be completely processed in a social security office but a continuing disability investigation requires expert medical review not available in the Social Security office. We have added a statement to § 416.204 to clarify that continuation of disability reviews are not part of the usual redetermination process.

While not related to these regulations, we are conducting studies to try to make the data on medical evidence more helpful to those who must decide whether an individual is disabled.

Comment. A legal aid service proposes that SSA verify information received from a third party before scheduling a redetermination.

Response. When SSA receives a third-party report that affects the eligibility of an SSI beneficiary, we talk with the beneficiary. We do not automatically conduct a redetermination but will if the circumstances so indicate. Our first contact is with the beneficiary and we seek verification from others if the beneficiary's information is incomplete.

There are no specific reporting or recordkeeping requirements requiring OMB approval in these regulations. All descriptions are general in nature and are treated individually, and in depth, in related existing regulations.

We certify that these regulations do not have a significant impact on small entities because these regulations affect only individuals. Consequently, we have determined that a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980, is not necessary.

The proposed regulations with these changes are adopted as shown below.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

Dated: October 29, 1981.

John A. Svahn,

Commissioner of Social Security.

Approved: January 4, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

1. Subpart B of Part 416 is revised to read as follows:

Subpart B—Eligibility

General

Sec.
416.200 Introduction.
416.201 General definitions and terms used in this subpart.
416.202 Who may get SSI benefits.
416.203 Initial determinations of SSI eligibility.
416.204 Redeterminations of SSI eligibility.

Reasons Why You May Not Get SSI Benefits for Which You Are Otherwise Eligible

416.210 You do not apply for other benefits.
416.211 You are a resident of a public institution.
416.212 You do not accept vocational rehabilitation services.
416.213 You are a disabled and medically determined drug addict or alcoholic and you do not accept or follow treatment.
416.214 You leave the United States.

Eligibility for Increased Benefits Because of Essential Persons

416.220 General.
416.221 Who is a qualified individual.
416.222 Who is an essential person.
416.223 What happens if you are a qualified individual.

Authority.—Secs. 1102, 1602, 1611, 1614, and 1631 of the Social Security Act as amended, Secs. 211 and 212 of Pub. L. 93–66, 49 Stat. 647 as amended, 86 Stat. 1465, 86 Stat. 1466, 86 Stat. 1471, and 86 Stat. 1475, 42 U.S.C. 1302, 1381a, 1382, 1382c, and 1383.

Subpart B—Eligibility

General

§ 416.200 Introduction.

You are eligible for SSI benefits if you meet all the basic requirements listed in § 416.202. You must give us any information we request and show us necessary documents or other evidence to prove that you meet these requirements. We determine your eligibility and benefit amount for each calendar quarter on the basis of the income you receive within that quarter. You continue to be eligible and receive benefits unless you lose your eligibility because you no longer meet the basic requirements or because of one of the reasons given in §§ 416.210 through 416.214.

§ 416.201 General definitions and terms used in this subpart.

"Calendar quarter" means a period of three full calendar months beginning with January, April, July, or October.

"Institution" means an establishment that makes available some treatment or services in addition to food and shelter to four or more persons who are not related to the proprietor.

"Medical care facility" means a hospital (defined in section 1861(e) of the Act), a skilled nursing facility (defined in section 1861(j) of the Act), or an intermediate care facility (defined in section 1905(c) of the Act).

"Public institution" means an institution that is operated by or controlled by the Federal government, a State, or a political subdivision of a State such as a city or county. The term "public institution" does not include a publicly operated community residence which serves 16 or fewer residents.

"Resident of a public institution" means a person who can receive substantially all of his or her food and shelter while living in a public institution. The person need not be receiving treatment and services available in the institution and is a resident regardless of whether the resident or anyone else pays for all food, shelter, and other services in the institution. A person is not a resident of a public institution if he or she is living in a public educational institution (as defined in § 404.367(a)) and is enrolled in or registered for the education or vocational training provided by the institution. A "resident" of a public institution means the same thing as an "inmate" of a public institution as used in section 1611(e)(1)(A) of the Social Security Act.

"SSI" means supplemental security income.

"State assistance" means payments made by a State to an aged, blind, or disabled person under a State plan approved under title I, X, XIV, or XVI (AABD) of the Social Security Act which was in effect before the SSI Program.

"We" or "Us" means the Social Security Administration.

"You" or "Your" means the person who applies for or receives SSI benefits or the person for whom an application is filed.

§ 416.202 Who may get SSI benefits.

You are eligible for SSI benefits if you meet all of the following requirements:

(a) You are—

(1) Aged 65 or older (Subpart H);

(2) Blind (Subpart I); or

(3) Disabled (Subpart I).

(b) You are a resident of the United States (§ 416.1602), and—

(1) A citizen or a national of the United States (§ 416.1603);

(2) An alien lawfully admitted for permanent residence in the United States (§ 416.1604); or

(3) An alien permanently residing in the United States under color of law (§ 416.1605).

(c) You do not have more income than is permitted (Subparts K and D).

(d) You do not have more resources than are permitted (Subpart L).

(e) You file an application for SSI benefits (Subpart C).

§ 416.203 Initial determinations of SSI eligibility.

(a) *What happens when you apply for SSI benefits.* When you apply for SSI benefits we will ask you for documents and any other information we need to make sure you meet all the requirements. We will ask for information about your income and resources and about other eligibility requirements and you must answer completely. We will help you get any documents you need but do not have.

(b) *How we determine your eligibility for SSI benefits.* If you apply for SSI benefits in the first month of a calendar quarter, we determine your eligibility for the whole calendar quarter. If you apply for benefits in the second or third month of the calendar quarter, we determine your eligibility for SSI benefits separately for each month in that calendar quarter. After the first quarter, we determine your eligibility for whole calendar quarters.

§ 416.204 Redeterminations of SSI eligibility.

(a) *Redeterminations defined.* A redetermination is a review of your eligibility to make sure that you are still eligible and that you are receiving the right amount of SSI benefits. This review deals with the requirements for eligibility other than whether you are still disabled or blind. Continuation of disability or blindness reviews are discussed in §§ 416.989 and 416.990.

(b) *When we make redeterminations.* (1) We redetermine your eligibility on a scheduled basis at periodic intervals. The length of time between scheduled redeterminations varies depending on the likelihood that your situation may change in a way that affects your benefits.

(2) We may also redetermine your eligibility when you tell us (or we otherwise learn) of a change in your situation which affects your eligibility or the amount of your benefit.

(c) *The period for which a redetermination applies.* (1) The first redetermination applies to—

(i) The calendar quarter in which we make the redetermination;

(ii) All the calendar quarters after the calendar quarter of first eligibility; and

(iii) Future calendar quarters until the second redetermination.

(2) All other redeterminations apply to—

(i) The calendar quarter in which we make the redetermination;

(ii) All the calendar quarters that came after the last time we made a redetermination; and

(iii) Future calendar quarters until the next redetermination.

(3) If we made two redeterminations which cover the same calendar quarter, the later redetermination is the one we apply to that quarter.

Reasons Why You May Not Get SSI Benefits for Which You Are Otherwise Eligible

§ 416.210 You do not apply for other benefits.

(a) *General rule.* You are not eligible for SSI benefits if you do not apply for all other benefits for which you may be eligible.

(b) *What "other benefits" includes.* "Other benefits" includes annuities, pensions, retirement benefits, and disability benefits. For example, veterans' compensation and pensions; worker's compensation payments; retirement, survivors, and disability insurance benefits; and unemployment insurance benefits are all "other benefits".

(c) *Our notice to you.* We will give you a dated, written notice that will tell you about any other benefits that we think you are likely to be eligible for. In addition, the notice will explain that your eligibility for SSI benefits will be affected if you do not apply for those other benefits.

(d) *What you must do to apply for other benefits.* In order to apply for other benefits, you must file any required applications and do whatever else is needed so that your eligibility for the other benefits can be determined. For example, if any documents (such as a copy of a birth certificate) are required in addition to the application, you must submit them.

(e) *What happens if you do not apply for the other benefits.* (1) If you do not apply for the other benefits within 30 days from the day that you receive our written notice, you are not eligible for SSI benefits. This means that if you are applying for SSI benefits, you cannot receive them. If you are receiving SSI benefits, your SSI benefits will stop. In addition, you will have to repay us for any SSI benefits that you received beginning with the month that you received our written notice. We assume (unless you prove otherwise) that you received our written notice 5 days after the date shown on the notice. We will also find that you are not eligible for SSI benefits if you file the required application for other benefits but do not take other necessary steps to obtain them.

(2) We will not find you ineligible for SSI benefits if you have a good reason for not applying for the other benefits within the 30-day period or taking other necessary steps to obtain them. You may have a good reason if, for example—

(i) You are incapacitated (because of illness you were not able to apply); or

(ii) It would be useless for you to apply (you once applied for the benefits and the reasons why you were turned down have not changed).

§ 416.211 You are a resident of a public institution.

(a) *General rule.* You are not eligible for SSI benefits for any month throughout which you are a resident of a public institution (defined in § 416.201). By "throughout" a month we mean that you reside in an institution as of the beginning of a month and stay the entire month. If you have been a resident of an institution, you remain a resident if you are transferred from one public institution to another or if you are temporarily absent for a period of not more than 14 consecutive days. A person also is a resident of an institution throughout a month if he or she is born in the institution during the month and resides in the institution the rest of the month or resides in the institution as of the beginning of a month and dies in the institution during the month.

(b) *Exception for medical care facilities.* You may be eligible for SSI benefits at the reduced rate described in § 416.414 if—

(1) The public institution in which you reside throughout a month—

(i) Is a medical care facility; and

(ii) Medicaid (title XIX of the Act) pays a substantial part (more than 50 percent) of the cost of your care; or

(2) You reside for part of a month in a public institution and for the rest of the month are in a public or private medical care facility where Medicaid pays more than 50 percent of the cost of your care.

(c) *Exception for publicly operated community residences which serve no more than 16 residents.* (1) *General rule.* If you are a resident of a publicly operated community residence which serves no more than 16 residents, you may be eligible for SSI benefits.

(2) *Services that a facility must provide in order to be a community residence.* To be a community residence, a facility must provide food and shelter. In addition, it must make available some other services. For example, the other services could be—

(i) Social services;

(ii) Help with personal living activities;

(iii) Training in socialization and life skills; or

(iv) Providing occasional or incidental medical or remedial care.

(3) *"Serving no more than 16 residents"*. A community residence serves no more than 16 residents if—

(i) It is designed and planned to serve no more than 16 residents, or the design and plan were changed to serve no more than 16 residents; and

(ii) It is in fact serving 16 or fewer residents.

(4) *"Publicly operated"*. A community residence is publicly operated if it is operated or controlled by the Federal government, a State, or a political subdivision of a State such as a city or county.

(5) *Facilities which are not a "publicly operated community residence"*. If you live in any of the following facilities, you are not a resident of a publicly operated community residence:

(i) A residential facility which is on the grounds of or next to a large institution or multipurpose complex;

(ii) An educational or vocational training institution whose main function is to provide an approved, accredited, or recognized program to some or all of those who live there;

(iii) A jail or other facility in which your personal freedom is restricted because you are a prisoner, are being held under court order, or are being held until charges against you are disposed of; or

(iv) A medical care facility (defined in § 416.201).

§ 416.212 You do not accept vocational rehabilitation services.

If you are disabled or blind, you must accept any appropriate vocational rehabilitation services offered to you by the State agency to which we refer you. If you refuse these services, you are not eligible for benefits unless you have a good reason for not accepting them. The rules on vocational rehabilitation services are in Subpart Q.

§ 416.213 You are disabled and a medically determined drug addict or alcoholic and you do not accept or follow treatment.

If you receive benefits because you are disabled and you are a medically determined drug addict or alcoholic, you must accept any appropriate treatment for your drug addiction or alcoholism that we make available to you. So long as you refuse the treatment, you are not eligible to receive SSI benefits. The rules regarding treatment for drug addiction and alcoholism are in Subpart I.

§ 416.214 You leave the United States.

You lose your eligibility for SSI benefits for any month during all of which you are outside of the United States. If you are outside of the United States for 30 days or more in a row, you are not considered to be back in the United States until you are back for 30 days in a row. You may again be eligible for SSI benefits in the month in which the 30 days end if you continue to meet all other eligibility requirements. By "United States" we mean the 50 States the District of Columbia, and the Northern Mariana Islands.

Eligibility for Increased Benefits Because of Essential Persons

§ 416.220 General.

If you are a "qualified" individual and have an essential person you may be eligible for increased benefits. You may be a qualified individual and have an essential person only if you received benefits under a State assistance plan approved under title I, X, XIV, or XVI (AABD) of the Act for December 1973. Definitions and rules that apply to qualified individuals and essential persons are discussed in §§ 416.221 through 416.223.

§ 416.221 Who is a qualified individual.

You are a qualified individual if—

(a) You received aid or assistance for the month of December 1973 under a State plan approved under title I, X, XIV, or XVI (AABD) of the Act;

(b) The State took into account the needs of another person in deciding your need for the State assistance for December 1973;

(c) That other person was living in your home in December 1973; and

(d) That other person was not eligible for State assistance for December 1973.

§ 416.222 Who is an essential person.

(a) *General rule.* A person is an essential person if—

(1) That person has continuously lived in the home of the same qualified individual since December 1973;

(2) That person was not eligible for State assistance for December 1973;

(3) That person was never eligible for SSI benefits in his or her own right or as an eligible spouse; and

(4) There are State records which show that under a State plan in effect for June 1973, the State took that person's needs into account in determining the qualified individual's need for State assistance for December 1973.

Any person who meets these requirements is an essential person. This means that the qualified individual can have more than one essential person.

(b) *Absence of an essential person from the home of a qualified individual.* An essential person may be temporarily absent from the house of a qualified individual and still be an essential person. For example, the essential person could be hospitalized. We consider an absence to temporary if—

(1) The essential person intends to return;

(2) The facts support this intention;

(3) It is likely that he or she will return; and

(4) The absence is not longer than 90 days.

(c) *Absence of a qualified individual from his or her home.* You may be temporarily absent from your home and still have an essential person. For example, you could be hospitalized. We consider an absence to be temporary if—

(1) You intend to return;

(2) The facts support your intention;

(3) It is likely that you will return; and

(4) Your absence does not exceed six months.

(d) *Essential person becomes eligible for SSI benefits.* If an essential person becomes eligible for SSI benefits, he or she will no longer be an essential person beginning with the month that he or she becomes eligible for the SSI benefits.

§ 416.223 What happens if you are a qualified individual.

(a) *Increased SSI benefits.* We may increase the amount of your SSI benefits if—

(1) You are a qualified individual; and

(2) You have one or more essential persons in your home.

In Subpart D, we explain how these increased benefits are calculated.

(b) *Income and resource limits.* If you are a qualified individual, we consider the income and resources of an essential person in your home to be yours. You are eligible for increased SSI benefits if—

(1) Your resources which are counted do not exceed the limit for SSI eligibility purposes (see Subpart L); and

(2) Your income which is counted for SSI eligibility purposes (see Subpart K) does not exceed the sum of—

(i) The SSI Federal benefit rate (see Subpart D); and

(ii) The proper number of essential person increments (for the value of an essential person increment see Subpart D). One essential person increment is added to the SSI Federal benefit rate for each essential person in your home.

(c) *Excluding the income and resources of an essential person.* (1)

While an essential person increment increases your SSI Federal benefit rate, that person's income which we consider to be yours may actually result in a lower monthly payment to you. We will discuss this with you and explain how an essential person affects your benefit. If you choose to do so, you may ask us in writing to determine your eligibility without your essential person or, if you have more than one essential person, without one or more of your essential persons. We will then figure the amount of your SSI benefits without counting as your own income and resources of the essential persons that you specify and we will end the essential person increment for those essential persons. You should consider this carefully because once you make the request, you cannot withdraw it. We will make the change beginning with the month following the month that you make the request.

(2) We will not include the income and resources of the essential person if the person's income or resources would cause you to lose your eligibility. The loss of the essential person increment will be permanent.

2. The authority citation for Subpart D of Part 416 reads as follows:

Authority: Sections 1102, 1611, 1612, and 1631 of the Social Security Act as amended; 49 Stat. 647 as amended, 86 Stat. 1466, 86 Stat. 1468, 86 Stat. 1475; 42 U.S.C. 1302, 1382, 1382a, and 1383.

3. In Subpart D a new § 416.414 is added to read as follows:

§ 416.414 Amount of benefits; eligible individual or eligible couple in a medical care facility.

(a) *General rule.* There is a reduced SSI benefit rate for persons who are in medical care facilities where more than 50 percent of the cost of their care is paid by a State plan approved under title XIX of the Social Security Act (Medicaid). Persons to whom this benefit rate applies are—

(1) Those who are otherwise eligible and who are in the medical care facility throughout a month (By "throughout a month" we mean that you are in the medical care facility as of the beginning of the month and stay the entire month. If you are in a medical care facility you will be considered to have continuously been staying there if you are transferred from one medical care facility to another or if you are temporarily absent for a period of not more than 14 consecutive days.); and

(2) Those who reside for part of a month in a public institution and for the rest of the month are in a public or private medical care facility where Medicaid pays more than 50 percent of the cost of their care.

(b) *The benefit rates are—*

(1) *Eligible individual.* The benefit rate for an eligible individual with no eligible spouse is $300 per year. The benefit payment is figured by subtracting the eligible individual's countable income (see Subpart K) from the benefit rate.

(2) *Eligible couple both in medical care facilities.* The benefit rate for a couple is $600 a year. The benefit payment is figured by subtracting the couple's countable income (see Subpart K) from the benefit rate.

(3) *Eligible couple with one spouse in a medical care facility.* The couple's benefit rate equals:

(i) $300 per year for the spouse in the medical care facility; plus

(ii) The benefit rate for an eligible individual (see § 416.410) for the spouse who is not in the medical care facility. The benefit payment for each spouse is figured by subtracting each individual's own countable income from his or her portion of the benefit rate shown in subparagraphs (i) and (ii) of paragraph (b)(3).

(c) *Definition.* For purposes of this section a "medical care facility" means a hospital (see section 1861(e) of the Act), a skilled nursing facility (see section 1861(j) of the Act) or an intermediate care facility (see section 1905(c) of the Act).

(Secs. 1102, 1611, and 1631 of the Social Security Act as amended, 49 Stat. 647, as amended, 86 Stat. 1466 as amended, 86 Stat. 1475, 42 U.S.C. 1302, 1382, and 1383)

4. A new Subpart P is added to Part 416 to read as follows:

Subpart P—Residence and Citizenship

Sec.

416.1600 Introduction.
416.1601 Definitions and terms used in this subpart.
416.1603 How to prove you are a resident of the United States.
416.1605 How long you must be present in the United States.
416.1610 How to prove you are a citizen or a national of the United States.
416.1615 How to prove you are lawfully admitted for permanent residence in the United States.
416.1618 How to prove you are permanently residing in the United States under color of law.

Authority: Secs. 1102, 1614, and 1631 of the Social Security Act as amended, 49 Stat. 647 as amended, 86 Stat. 1471, and 86 Stat. 1475, 42 U.S.C. 1302, 1382c, and 1383.

Subpart P—Residence and Citizenship

§ 416.1600 Introduction.

You are eligible for supplemental security income (SSI) benefits if you meet the requirements in Subpart B. Among these are requirements that you must be a resident of the United States and either a citizen, a national, or an alien with a lawful right to reside permanently in the United States. In this subpart, we tell you what kinds of evidence show that you are a resident of the United States (see § 416.1603) and—

(a) A citizen or a national of the United States (see § 416.1610);

(b) An alien lawfully admitted for permanent residence in the United States (see § 416.1615); or

(c) An alien permanently residing in the United States under color of law (see § 416.1618).

§ 416.1601 Definitions and terms used in this subpart.

"We" or "Us" means the Social Security Administration.

"You" or "Your" means the person who applies for or receives SSI benefits or the person for whom an application is filed.

§ 416.1603 How to prove you are a resident of the United States.

(a) *What you should give us.* Your home address in the United States may be sufficient to establish that you are a resident. However, if we have any reason to question that you are a resident of the United States we will ask for evidence. You can prove you are a resident of the United States by giving us papers or documents showing that you live in the United States such as—

(1) Property, income, or other tax forms or receipts;

(2) Utility bills, leases or rent payment records;

(3) Documents that show you participate in a social services program in the United States; or

(4) Other records or documents that show you live in the United States.

(b) *What "resident of the United States" means.* We use the term "resident of the United States" to mean a person who is living within the geographical limits of the United States.

(c) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the District of Columbia, and the Northern Mariana Islands.

§ 416.1605 How long you must be present in the United States.

You must be present in the United States for 30 days in a row for us to consider you a resident. You lose your

eligibility for any month all of which you are outside the United States. If you are outside the United States for 30 days in a row, you are not considered to be back in the United States until you are back for 30 days in a row. You may again be eligible for SSI benefits in the month in which the 30 days ends.

§ 416.1610 How to prove you are a citizen or a national of the United States.

(a) *What you should give us.* You can prove that you are a citizen or a national of the United States by giving us—

(1) A certified copy of your birth certificate which shows that you were born in the United States;

(2) A certified copy of a religious record of your birth or baptism which shows you were born in the United States;

(3) Your naturalization certificate;

(4) Your United States passport;

(5) Your certificate of citizenship;

(6) An identification card for use of resident citizens in the United States (Immigration and Naturalization Service Form I–197); or

(7) An identification card for use of resident citizens of the United States by both or naturalization of parents (INS Form I–179).

(b) *How to prove you are an interim citizen of the United States if you live in the Northern Mariana Islands.* As a resident of the Northern Mariana Islands you must meet certain conditions to prove you are an interim citizen of the United States. You must prove that you were domiciled in the Northern Mariana Islands as required by section 8 of the Schedule of Transitional Matters of the Constitution of the Northern Mariana Islands, or that you were born there after March 6, 1977. By "domiciled" we mean that you maintained a residence with the intention of continuing that residence for an unlimited or indefinite period, and that you intended to return to that residence whenever absent, even for an extended period. You must also give us proof of your citizenship if you are a citizen of the Trust Territory of the Pacific Islands of which the Marianas are a part.

(1) You can prove you were domiciled in the Northern Mariana Islands by giving us—

(i) Statements of civil authorities; or

(ii) Receipts or other evidence that show you were domiciled there.

(2) You can prove that you are a citizen of the Trust Territory of the Pacific Islands by giving us—

(i) Your identification card issued by the Trust Territory of the Pacific Islands and a public or religious record of age which shows you were born in this territory;

(ii) Your voter's registration card;

(iii) A Chammoro Family Record showing your birth in the Trust Territory of the Pacific Islands; or

(iv) Your naturalization certificate.

(c) *What to do if you cannot give us the information listed in paragraph (a) or (b).* If you cannot give us any of the documents listed in paragraph (a) or (b), we may find you to be a citizen or a national of the United States if you—

(1) Explain why you cannot give us any of the documents; and

(2) Give us any information you have which shows or results in proof that you are a citizen or a national of the United States. The kind of information we are most concerned about shows—

(i) The date and place of your birth in the United States;

(ii) That you have voted or are otherwise known to be a citizen or national of the United States; or

(iii) The relationship to you and the citizenship of any person through whom you obtain citizenship.

(d) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, Swain's Island, and the Northern Mariana Islands.

§ 416.1615 How to prove you are lawfully admitted for permanent residence in the United States.

(a) *What you should give us.* You can prove that you are lawfully admitted for permanent residence in the United States by giving us—

(1) An Alien Registration Receipt Card (Immigration and Naturalization Service (INS) Form I–151 or I–551);

(2) A reentry permit; or

(3) An alien identification card issued by the government of the Northern Mariana Islands showing that you are admitted to the Northern Mariana Islands for permanent residence.

(b) *What to do if you cannot give us the information listed in paragraph (a).* If you cannot give us any of the documents listed in paragraph (a), we may find you to be lawfully admitted for permanent residence in the United States if you—

(1) Explain why you cannot give us any of the documents; and

(2) Give us any information you have which shows or results in proof that you are lawfully admitted for permanent residence in the United States.

(c) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the District of Columbia, and the Northern Mariana Islands.

§ 416.1618 How to prove you are permanently residing in the United States under color of law.

(a) *What you should give us.* You can prove you are permanently residing in the United States under color of law by giving us—

(1) An Arrival-Departure Record (Immigration and Naturalization Service (INS) Form I–94) endorsed "Refugee Conditional Entry" and showing the section of the Immigration and Nationality Act under which you were admitted.

(2) An Arrival-Departure Record (INS Form I–94) endorsed to show that you are paroled for an indefinite period under section 212(d)(5) of the Immigration and Nationality Act;

(3) An Arrival-Departure Record (INS Form I–94) endorsed "Voluntary Departure Granted—Employment Authorized" (this form and an INS letter are given to persons affected by a United States District Court order issued March 10, 1977);

(4) An Arrival-Departure Record (INS Form I–94) endorsed "Admitted as a refugee pursuant to section 207 of the Immigration and Naturalization Act";

(5) An Order of Supervision (INS Form I–220B) which shows you have been granted an indefinite stay of deportation.

(6) Any other letter or document from the Immigration and Naturalization Service showing that you have been granted either an indefinite voluntary departure or an indefinite stay of deportation; or

(7) Proof of your presence in the United States before June 30, 1948, and proof of your continuous residence thereafter.

(b) *What to do if you cannot give us the information listed in paragraph (a).* If you cannot give us any of the documents listed in paragraph (a), we may find you to be permanently residing in the United States under color of law if you—

(1) Explain why you cannot give us any of the documents; and

(2) Give us any information you have which shows or results in proof that you are permanently residing in the United States under color of law. We will contact the Immigration and Naturalization Service to help establish that you meet this color of law rule.

(c) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the

District of Columbia, and the Northern Mariana Islands.

[FR Doc. 82-1622 Filed 1-21-82; 8:45 am]
BILLING CODE 4110-07-M

Food and Drug Administration

21 CFR Part 166

[Docket No. 78P-0254]

Margarine Labeling; Extension and Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; extension and confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is extending and confirming the effective date for compliance with the amendment of the margarine labeling regulation which removed those provisions that set forth the names by which certain ingredients in oleomargarine or margarine should be declared. That amendment was published in the Federal Register of June 12, 1981.

DATE: The effective date for compliance with the amendment of the margarine standard is July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Bureau of Foods (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: A final regulation was published in the Federal Register of June 12, 1981 (46 FR 31004) to amend the margarine labeling regulation by removing those provisions, § 166.40(b)(1) through (10) (21 CFR 166.40(b)(1) through (10)), which set forth the names by which certain ingredients in oleomargarine or margarine should be declared. Any person who would be adversely affected could, on or before July 13, 1981, submit written objections to the amendment and, if desired, request a hearing on the specific provisions to which there were objections. Two letters, containing objections but no requests for a hearing, were received in response to the final regulation. The objections and the agency's responses are as follows:

1. One objection asserted that the new labeling requirements would require costly and frequent changes of the inner wrappers to make them conform with the outer package.

This objection is outside the scope of this rule because the removal of § 166.40(b)(1) through (10) will not require changes in any of the information currently required to be placed on the inner wrappers of margarine or oleomargarine. Further, because these inner wrappers are exempt from the declaration of ingredients as set forth in § 166.40(i), this amendment does not affect that exemption.

2. Two objections asserted that FDA was in error not to continue to permit the listing of fat/oil ingredients separately as a group at the beginning of the ingredient statement without a grouping phrase (e.g., vegetable oil blend) as required by the labeling regulations set forth in § 101.4(b)(14) (21 CFR 101.4(b)(14)).

This objection, too, is outside the scope of the issues presented by the proposal and is based on a misunderstanding of the effect of the amendment. The agency advises that, since 1976 (see 41 FR 1156; January 6, 1976 and subsequent issues 41 FR 5632; February 9, 1976 and 41 FR 14178; April 2, 1976) when § 101.4(b)(14) was promulgated, the standard of identity for margarine (21 CFR 166.110), by cross reference to 21 CFR Part 101, requires a grouping phrase (e.g., vegetable oil blend) before a parenthetical listing of the fat and/or oil ingredients to be placed in the ingredient statement of margarine. As stated in the earlier stages of this proceeding, the sole purpose of the amendment of § 166.40(b) is to make it consistent with the margarine standard of identity's labeling requirements.

The agency will, however, give due consideration to any petition, supported by adequate data, which demonstrates that an identifying phrase before the list of fat and/or oil ingredients is not in the best interests of consumers.

3. One objection requested an extension of the effective date to July 1, 1985, to allow margarine manufacturers to exhaust their existing label inventories.

FDA is granting the requested extension and confirming July 1, 1985, as the effective date for compliance with this regulation. Voluntary compliance was permitted to begin August 11, 1981.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 21 CFR 5.1; see 46 FR 26052; May 11, 1981)) notice is given that the effective date for compliance with § 166.40(b) as amended in the Federal Register of June 12, 1981 (46 FR 31004) is confirmed and extended to July 1, 1985.

Dated: January 15, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-1536 Filed 1-21-82; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Removal of the Conditions of Approval of the Arkansas Permanent Program

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

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 904 by removing the conditions of approval of the Arkansas permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Arkansas has submitted provisions to the Office of Surface Mining (OSM) which satisfy all the conditions of the Secretary's approval of November 21, 1980 (45 FR 77003-77017).

EFFECTIVE DATE: The removal of the condition of the approval is effective January 22, 1982.

FOR FURTHER INFORMATION CONTACT: William Schmidt, Assistant Director, Program Operations and Inspection, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW, Washington, D.C. 20240, telephone (202) 343-4225.

SUPPLEMENTARY INFORMATION:

Background on the Arkansas Program Submission

On February 19, 1980, OSM received a proposed regulatory program from the State of Arkansas. On November 14, 1980, following a review of that proposed program as outlined in 30 CFR 732, the Secretary approved the program subject to the correction of four minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the November 21, 1980, Federal Register (45 FR 77003-77017).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Arkansas program can

be found in the November 21, 1980, **Federal Register** (45 FR 77003–77017).

Background on the Secretary's Conditional Approval

The Secretary of the Interior determined that the Arkansas program contained four minor deficiencies.

1. The penalties for a person convicted of interfering with Arkansas Department of Pollution Control and Ecology (DPCE) employees in the performance of their duties, as provided in Arkansas Stat. Ann. 41–2801, 41–901 and 41–1101, were less stringent than the penalties of section 704 of SMCRA.

2. Arkansas regulation § 786.19(h) referenced State law rather than Federal law regarding proof of payment of all reclamation fees before permit approval, contrary to 30 CFR 786.19(h).

3. Arkansas did not place a limit on the time within which adjudicatory hearings on proposed civil penalties will be held.

4. Arkansas regulation § 940.1(a) did not incorporate the criteria for granting temporary relief during administrative review required by section 525(c) of SMCRA.

In accepting the Secretary's conditional approval, Arkansas agreed to correct deficiency number 1 by April 15, 1981, and deficiencies 2, 3, and 4 by January 1, 1981.

Submission of Revisions and Public Comment

On September 2, 1980, OSM received from the Arkansas DPCE a revision to the State regulations intended to satisfy condition number 4 (See Arkansas Administrative Record AR–192).

On January 19, 1981, the Arkansas DPCE submitted to OSM additional amendments to the State regulations to meet conditions 2 and 3 (Administrative Record AR–223).

On March 12, 1981, OSM received from the Arkansas DPCE an amendment to the State Act to satisfy condition 1 (Arkansas Administrative Record AR–224).

OSM published a notice in the **Federal Register** on August 25, 1981, announcing receipt of these provisions and inviting public comment on whether the proposed program amendments corrected the deficiencies (46 FR 42873). The public comment period ended September 25, 1981. A public hearing scheduled for September 21, 1981, was not held because no one expressed a desire to present testimony. One comment was received. The Environmental Policy Institute indicated that it had found no substantive problems with the proposed modifications to Arkansas' program and, therefore, it recommended that the Secretary remove the conditions of approval.

Secretary's Findings

The Secretary finds the amendments submitted by Arkansas on September 2, 1980, January 19, 1981, and March 12, 1981, correct the deficiencies in the Arkansas program as follows:

(1) Section 19 of Act 134, as amended by Senate Bill 191, making it a crime to resist, prevent, impede, or interfere with the Director of the Arkansas DPCE or his agents and specifying a penalty of not more than $5,000 or imprisonment for not more than one year or both, upon conviction, is consistent with section 704 of SMCRA, and corrects deficiency 1.

(2) Arkansas regulation 786.19(h), as amended, requires proof of payment of all reclamation fees, as required by section 402 of Pub. L. 95–87, and corrects deficiency.

(3) Arkansas regulation 845.19(a) places a 60-day limit on the time within which adjudicatory hearings on proposed civil penalties will be held and corrects deficiency 3.

(4) Arkansas regulation 940.1(a) providing criteria for temporary relief during administrative proceedings is consistent with section 525(c) of SMCRA and corrects deficiency 4.

Approval Without Condition

Accordingly, the Arkansas permanent program is hereby fully approved. 30 CFR 904.10 is amended to indicate approval of the September 2, 1980, January 19, 1981, and March 12, 1981, program amendments. 30 CFR 904.11 which established the conditions of the initial approval is hereby repealed.

The removal of the conditions of the approval of the Arkansas permanent program is effective upon publication of this notice.

Additional Findings

Pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval. This document is not a major rule under E.O. 12291; therefore no Regulatory Impact Analysis is being prepared on this approval.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

On August 26, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence on the Arkansas permanent program. The amended regulatory provisions approved in this document are not aspects of the Arkansas permanent program which relate to air or water quality standards promulgated under the authority of the Federal Clean Water Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1847 *et seq.*).

Dated: January 6, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

Accordingly, the Arkansas permanent program is hereby fully approved. 30 CFR 904.10 is amended to indicate approval of the September 2, 1980, January 19, 1981, and March 12, 1981, program amendments. 30 CFR 904.11 which established the conditions of the initial approval is hereby repealed.

PART 904—ARKANSAS

Part 904 of Title 30 is amended as follows:

1. 30 CFR 904.10 is amended by revising (a) to read as follows:

§ 904.10 State regulatory program approval.

(a) The Arkansas permanent program submitted February 18, 1980, as amended May 29, 1980, July 2, 1980 (with clarifications submitted July 29, August 8, August 14 and August 29, 1980), and as further amended September 2, 1980, January 19, 1981, and March 12, 1981, is approved effective upon publication of this notice. Copies of the approved program, as amended, are available at:

(1) Arkansas Department of Pollution Control and Ecology, Mining Reclamation Division, 8001 National Drive, Little Rock, Arkansas 72219, telephone: (501) 371–2130.

(2) Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, 5th Floor, Kansas, City, Missouri 64106, telephone (816) 374–3920.

(3) Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, 1100 L Street NW., Washington, D.C., telephone (202) 343–4728.

* * * * *

§ 904.11 [Removed]

30 CFR 904.11 is hereby removed.

[FR Doc. 82-1538 Filed 1-21-82; 8:45 am]

BILLING CODE 4310-05-M

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36 CFR Part 60

National Register of Historic Places; Extension of Comment

AGENCY: National Park Service, Interior.

ACTION: Extending comment period for interim rule.

SUMMARY: In order to provide greater opportunity for public comment, the National Park Service is extending the period for comment. These interim rules that appeared in the **Federal Register**, Vol. 46, No. 220, November 16, 1981, pp. 56183–56195, (FR Doc. 81–32873), incorporate revisions required by the National Historic Preservation Act Amendments of 1980, Pub. L. 96–515, ("Amendments"), and update and revise in minor respects the procedures for nomination to National Register of Historic Places by States and Federal agencies as set forth in 36 CFR Part 60.

DATE: The comment period has been extended from January 15, 1982 to February 1, 1982.

ADDRESS: Send comments to: Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240 (202/272–3504).

FOR FURTHER INFORMATION CONTACT: Carol D. Shull, Acting Keeper of the National Register.

Jerry L. Rogers,

Acting, Associate Director, Archeology and Historic Preservation.

[FR Doc. 82–1648 Filed 1–21–82; 8:45 am]

BILLING CODE 4310–70–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL 2019–7]

Approval and Promulgation of Implementation Plans; California and Hawaii State Implementation Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA announces its approval of a State Implementation Plan (SIP) revision which the California Air Resources Board has submitted pursuant to the requirements of Section 127 of the Clean Air Act. The revision consists of commitments on the part of nine local districts to carry out public notification programs in accordance with EPA guidance. This notice also announces EPA's approval of a variance granted by the State of Hawaii regarding opacity requirements for a stationary source, the Davies Hamakua Sugar Company.

EFFECTIVE DATE: March 23, 1982.

ADDRESSES: Copies of the revisions and supporting information are available for public inspection during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street, SW., Room 2404, Washington, D.C. 20460

Library, Office of the Federal Register, 1100 "L" Street NW., Room 8401, Washington, D.C. 20408

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

Hawaii Department of Health, Environmental Programs Division, 1250 Punchbowl, Honolulu, HI 96801.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 9, 215 Fremont St., San Francisco, CA 94105, telephone: (415) 974–8222.

SUPPLEMENTARY INFORMATION: On January 22, 1981, the California Air Resources Board submitted as a SIP revision commitments from nine local districts to carry out public notification programs as described in EPA's October, 1979 revision to the *Public Notification Guidelines*. The commitments to notify the public of local exceedances of any air quality standard are for the following Air Pollution Control Districts: Bay Area Air Quality Management District (AQMD), Fresno County Air Pollution Control District (APCD), Kern County APCD, Monterey Bay Unified APCD, Sacramento County APCD, San Diego County APCD, Santa Barbara APCD, South Coast AQMD, and Ventura County APCD. EPA has evaluated the public notification and public participation procedures developed by each district and has found that they adequately address the requirements of section 127 of the Clean Air Act, 40 CFR 51.285, and EPA's October 1979 revision to the *Public Notification Guideline*. EPA, therefore, approves the Districts' commitments for incorporation into the SIP.

On November 25, 1980, the Governor of Hawaii submitted as a SIP revision a variance from Hawaii Public Health Regulations Chapter 43, Air Pollution Control. The variance issued by the Hawaii Department of Health (HDOH) is in response to a request by Davies Hamakua Sugar Company for its Haina Mill. The variance allows the source to cause visible emissions of 39% opacity until August 1985 instead of the 20% opacity required by Section 8(b)(1) of Chapter 43. EPA has evaluated the HDOH's SIP revision and has determined that the variance will not cause a violation of any national ambient air quality standard or any prevention of significant deterioration increment. EPA, therefore, approves the HDOH's opacity variance as part of the Hawaii SIP.

EPA's approval of the above revisions to the California and Hawaii SIPs is being done without prior proposal because the revisions are not controversial. The public should be advised that this approval action will be effective March 23, 1982. 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 be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Under Executive Order 12291, EPA must judge whether a rulemaking action is "major". Further, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA must assess the effect of the rulemaking action on "small entities". This regulation is not "major" because it approves state and local actions and imposes no new requirements. I hereby certify that the action will not have a significant economic impact on a substantial number of small entities.

Incorporation by reference of the State Implementation Plans for the States of California and Hawaii was approved by the Director of the Federal Register on July 1, 1981.

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

Dated: January 18, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subparts F and M of Part 52 of Chapter I, Title 40 of the *Code of Federal Regulations* are amended as follows:

1. Section 52.220 is amended by adding paragraph (c)(99) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(99) Commitments by the Bay Area AQMD, Fresno County APCD, Kern County APCD, Monterey Bay Unified APCD, Sacramento County APCD, San Diego County APCD, Santa Barbara County APCD, South Coast AQMD, and Ventura County APCD to carry out public notification programs as required by Section 127 of the Clean Air Act and in accordance with EPA guidance. These

commitments were submitted by the Air Resources Board on January 22, 1981.

* * * * *

2. Section 52.620 is amended by adding paragraph (c)(13) as follows:

§ 52.260 Identification of plan.

* * * * *

(c) * * *

(13) A variance to the Hawaii Public Health Regulations, Chapter 43, section 8 (b)(1) submitted on November 25, 1980 by the Governor.

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[FR Doc. 82-1621 Filed 1-21-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-4-FRL-2011-5]

Approval and Promulgation of Implementation Plans; Florida: Startup, Upset, and Malfunction Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On August 12, 1976, Florida submitted additions to Chapter 17-2 and 17-4 of its administrative code to EPA for approval as implementation plan revisions. The revisions require that the Department of Environmental Regulation be notified prior to the startup of a source that has been shut down for more than a year. The notification shall take place 60 days prior to startup unless an emergency requires an earlier startup. Changes have been made in the definitions of existing and new sources, startup, shutdown, malfunction, and excess emissions. Additional changes allow excess emissions during startup, shutdown, or malfunction under specified conditions. Excess emissions caused by poor maintenance, operation or preventable equipment failure are prohibited. Notification of excess emissions must be made to the Department of Environmental Regulation. On October 19, 1979, and September 24, 1980, Florida submitted revisions to FAC 17-2 and Table II, E which change the visible emission limiting standards for existing fossil fuel steam generators and provide a particulate emission cap for soot blowing and load changing. EPA is today approving all these revisions. This action will be effective March 23, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

DATES: This action is effective March 23, 1982.

ADDRESSES: Written comments should be addressed to Douglas Cook of the EPA Region IV Air Programs Branch (see address below). 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

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

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

Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Douglas Cook, EPA Region IV, Air Programs Branch, at the above listed address and phone 404/881-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: The State's August 6, 1976, submittal revises FAC 17-4 (Permits) and FAC 17-2 (Definitions and General Restrictions). In effect, the upset and startup rule revision recognizes the occurrence of unavoidable malfunctions and provides a definite control rule to deal with them. The change in the definition of "new source" and "existing source" deletes the requirement that new source emission limitations be complied with by sources which have been shut down for one year or more. However, the reporting required by the regulation will provide the data to determine if additional controls are needed to protect ambient air quality.

On August 22, 1979, the Florida Environmental Regulation Commission adopted an amendment to Chapter 17-2, FAC, which contains three important revisions in the regulation. The general impact of these revisions is to modify excess emission limitations and visible emission limits. Specifically:

1. The visible emission limitation for existing fossil fuel steam generators during steady state operation is increased from 20 percent to 40 percent opacity for units which elect to perform a quarterly particulate source test. The quarterly particulate source test must demonstrate compliance with the current particulate mass emission limit of 0.1 pounds per million BTU (#/MM BTU) input. If such quarterly testing shows the units to be in compliance, the owner or operator may petition the Secretary to reduce the required frequency of sampling. Verification of compliance with the appropriate opacity limit will be accomplished during periodic field inspections in accordance with the proposed state test methods in the September 8, 1981, **Federal Register** (46 FR 44783).

2. Owners of new fossil fuel steam generators may petition the Secretary of the Department of Environmental Regulation for an increase in the 20 percent visible emission limit on a case-by-case basis. This can be granted only if all mass emission limits are being complied with. The Secretary has the authority to limit these units to the corresponding opacity observed during compliance tests, if it is greater than 20 percent. The limiting opacity determined by the Secretary will be incorporated into permit or site certification conditions for the specific unit. Compliance with the visible emission limits will be enforced during periodic field inspections and subsequent compliance tests in accordance with the proposed state test methods in the September 8, 1981, **Federal Register** (46 FR 44783).

3. Section 17-2.05(14), FAC, has been amended to allow excess emissions from fossil fuel steam generators during periods of boiler cleaning and load changing. This revision of the rule permits fossil fuel steam generators to have visible emissions as high as 60 percent for a period aggregating as long as 3 hours per day. In addition, the units which have installed or committed to install continuous opacity monitors are allowed to exceed 60 percent opacity for up to 4 six-minute periods during the allowed 3 hours per day. A particulate mass emission limiting cap of 0.3 #/MM BTU applies to the affected sources during periods of soot blowing and load changing. Compliance with the opacity limiting standards of section 17-2.05(14), FAC, will be monitored during random field inspections and quarterly compliance tests in accordance with the proposed state test methods in the September 8, 1981, **Federal Register** (46 FR 44783). The Department will monitor compliance with the 0.3 #/MM BTU emission cap by requiring that three runs of the test be conducted during soot blowing and load changing modes. The runs will be arithmetically averaged and the average compared to the 0.3 #/MM BTU standard. The average of the three runs taken during steady state operation will be used for determining compliance with the 0.1 #/MM BTU standard.

Since Chapter 17-2, FAC, previously contained no definition of "load change", one was developed and added. This definition was necessary so that only significant load changes would

exempt fossil fuel steam generators from the 0.1 #/MM BTU standard. Analysis of actual load data enabled the Department and the power industry to concur on a definition. A load change is defined as occurring when a fossil fuel steam generator, operating in the 10 to 100 percent capacity range makes a load change equal to or greater than 10 percent of capacity at a rate of 0.5 percent per minute or more.

Action. EPA is today approving the revisions submitted on August 12, 1976, October 19, 1979, and September 24, 1980, with regard to upset, startup, malfunction, reporting, visible emissions, and total suspended particulate cap for soot blowing and load changing. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn, and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and estblishing a comment period.

Under Section 307(b)(1) of the Clean Air Act, judicial review of EPA's approval of this revision is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before March 23, 1982. 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.

Pursuant to the provisions of 5 U.S.C. section 605(b) the Administrator has certified (46 FR 8709) that the proposed rule will not if promulgated have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it imposes no new burden on sources.

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, 1981.

(Section 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: January 18, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

In § 52.520, paragraph (c) is amended by adding subparagraph (40) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(40) Amendments to upset, startup and malfunction rule, submitted on August 12, 1976; revisions to section 17–2.05(14) FAC (excess emissions) and 17–2.05(6) Table II, E., FAC, fossil fuel steam generators-visible emissions, submitted on October 19, 1979; revision describing compliance testing for amendments in section 17–2.05 (14) and (6), submitted on September 24, 1980, by the Department of Environmental Regulation.

[FR Doc. 82–1661 Filed 1–21–82; 8:45 am]

BILLING CODE 6560–38–M

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40 CFR Part 52

[A–7–FRL 2024–8]

Ambient Air Quality Monitoring: State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final Rulemaking.

SUMMARY: On October 16, 1981, the Kansas Department of Health and Environment submitted a revision to the State Implementation Plan (SIP) for Kansas to comply with the requirements of Title 40 of the Code of Federal Regulations (CFR) Part 58. The submission makes modifications to the existing Kansas air quality surveillance network as required by 40 CFR 58.20. The purpose of today's notice is to take final action to approve the submission as a revision to the Kansas SIP.

EFFECTIVE DATE: This action is effective March 23, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comment.

ADDRESSES: Comments should be addressed to Mary C. Carter, Air and Radiation Branch, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the state submission are available for inspection during normal business hours at the above address and at the following locations: Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460; and Kansas Department of Health and Environment, Bureau of Air Quality and Occupational Health, Forbes Field, Topeka, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Mary C. Carter at (816) 374–3791; FTS 758–3791.

SUPPLEMENTARY INFORMATION: Section 110(a)(2)(C) of the Clean Air Act (Act) requires SIPs to contain provisions for ambient air quality monitoring and data reporting. The Act also requires, in section 319, that EPA establish monitoring criteria to be followed uniformly across the nation and establish a national monitoring network. EPA promulgated regulations to implement section 319 in the May 10, 1979, **Federal Register** (44 FR 27558). The May 10 rulemaking established Part 58 of Title 40 of the Code of Federal Regulations, entitled "Ambient Air Quality Surveillance." For a discussion of the requirements for state implementation plan content the reader is referred to the May 10 rulemaking, page 27572.

On October 16, 1981, the Kansas Department of Health and Environment submitted a SIP revision for an air quality monitoring surveillance network to comply with 40 CFR 58.20. The submission makes modifications to the existing Kansas air quality surveillance network which was approved by the EPA Administrator on May 31, 1972.

EPA has determined that the SIP submission meets the requirements of 40 CFR 58.20 as described below. As required by 40 CFR 58.20(a), each station in the air quality monitoring surveillance network provided for in the SIP has been designated by the state as a State and Local Air Monitoring Station (SLAMS) and measures ambient air quality levels of criteria pollutants for which National Ambient Air Quality Standards have been established. To satisfy 40 CFR 58.20(b), the state has committed to meet the requirements of Appendices A, C, D, and E to Part 58 relating to quality assurance procedures, methodology, network design, and siting parameters. Further, the SIP provides that all stations in the state SLAMS network will be operated in accordance with the criteria established by Subpart B of 40 CFR Part 58. The state has committed to operate at least one monitoring station per pollutant for carbon monoxide, sulfur dioxide, nitrogen dioxide, particulate matter, and ozone during any stage of an air

pollution episode. This satisfies the requirements of 40 CFR 58.20(c). The SIP provides for an annual review by the state of the air quality surveillance network by October 1 of each year to determine if there are any stations in the SLAMS network that should be terminated or relocated or whether any new stations should be established, as required by 40 CFR 58.20(d). A report of the findings will be submitted to the EPA Region VII office by January 1 of each year along with a schedule for making any necessary modifications to the network. As required by 40 CFR 58.20(e), a full description of the monitoring network has been developed and will be maintained on file for public inspection during normal business hours, at the Kansas Department of Health and Environment and at the EPA Region VII offices.

Action

EPA approves the SIP revision for the Kansas Air Quality Surveillance Network and incorporates it into the existing plan. EPA believes this action is noncontroversial and is taking final action to approve this submission without prior proposal. The public should be advised that this action will be effective March 23, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Pursuant to the provision of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. The reason for this determination is that it imposes no additional burden on sources.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major" because it only approves state actions and imposes no additional substantive requirements which are not currently applicable under state law. Hence it is unlikely to have an annual effect on the economy of $100 million or more, or to have other significant adverse impacts on the national economy.

Under section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2), 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.

This notice of final rulemaking is issued under the authority of sections 110 and 319 of the Clean Air Act as amended.

Dated: January 18, 1982.

Note.—Incorporation by reference of the State Implementation Plan for the State of Kansas was approved by the Director of the Federal Register on July 1, 1981.

Anne M. Gorsuch,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS.

1. Section 52.870 is amended by adding a new paragraph (c)(12) to read as follows:

§ 52.870 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(12) A plan revision which makes modifications to the existing Kansas air quality surveillance network was submitted by the Kansas Department of Health and Environment on October 16, 1981.

[FR Doc. 82-1611 Filed 1-21-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-7-FRL-2016-6]

Approval and Promulgation of State Implementation Plans: Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is taking final action in this notice to approve State Implementation Plan (SIP) revisions in Nebraska to raise the visible emission limitation from 20 percent to 40 percent opacity for existing teepee waste wood burners, and from 20 percent to 30 percent opacity for existing alfalfa dehydration plants. EPA's proposed approval of these SIP revisions appeared in the April 10, 1978, **Federal Register** (43 FR 14972). No comments were received. This action will be effective on March 23, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

EFFECTIVE DATE: This action is effective March 23, 1982.

ADDRESSES: Comments should be directed to Eloise Reed, Air, Noise and Radiation Branch, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

The submitted SIP revision is available for review during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Room 2922, 401 M Street, SW., Washington, D.C. 20460

Air, Noise and Radiation Branch, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106

Nebraska Department of Environmental Control, 301 Centennial Mall, Lincoln, Nebraska 68509

Office of the Federal Register, 1100 "L" Street, N.W., Room 8401, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Eloise Reed, Air Planning and Development Section, Air, Noise and Radiation Branch, Air and Hazardous Materials Division, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. Phone (816) 374-3791, FTS: 758-3791.

SUPPLEMENTARY INFORMATION: Rule 13, "Visible Emissions: Prohibited," of the Nebraska Rules and Regulations was amended by the Nebraska Environmental Control Council (NDEC) on November 18, 1977, to exempt existing teepee waste wood burners and existing alfalfa dehydration plants from the visible emission limitation of 20 percent opacity established for existing sources. The regulation became effective statewide on December 7, 1977.

The amendment to Rule 13 concerning existing teepee waste wood burners was requested by the Table Rock Lumber Company of Table Rock, Nebraska, which determined that it was economically infeasible to modify its facility in order to meet the 20 percent opacity limitation. A special ad hoc committee of the NDEC studied this request and proposed that existing teepee waste wood burners be allowed a visible emission limitation of 40 percent opacity.

There are only two existing teepee waste wood burners in Nebraska, therefore, EPA believes the provision will have no significant impact on ambient air quality. The two teepee waste wood burners emit less than 100 tons per year each of total suspended

particulates (TSP), and are located in areas which are currently attaining the National Ambient Air Quality Standard for TSP (Chadron in Dawes County and Table Rock in Pawnee County).

The committee also recommended the proposed revision to Rule 13 which allows existing alfalfa dehydrators a visible emission limitation of 30 percent opacity. This recommendation was partially based on a study of alfalfa dehydrators in Nebraska conducted for EPA which found the 20 percent opacity limitation to be more restrictive than the particulate emission limitations calculated using the process rate weight equation in Rule 5 of the Nebraska Rules and Regulations, "Process Operations; Particulate Emission Limitations for Existing Sources." The study also stated that some periods with opacity greater than 20 percent are unavoidable due to variations in feed and high dryer temperatures necessary in the dehydration plants.

All of the approximately 80 existing alfalfa dehydrators emit less than 40 tons per year of TSP each, and are located in the central and eastern portions of the state. The heaviest concentration is in Dawson County. All are located in either attainment or unclassifiable areas of the state, and are not significantly impacting the TSP nonattainment areas in Douglas, Sarpy and Cass Counties. There are no alfalfa dehydrators in the state located within 20 miles of the contiguous three-county TSP nonattainment area.

EPA's notice of proposed rulemaking was published at 43 FR 14972 on April 10, 1978. Nothing has occurred since to alter the information contained in that notice of proposed rulemaking. No comments were received.

The SIP revision has been reviewed in accordance with 40 CFR 51.24(a)(2), relating to Prevention of Significant Deterioration increment consumption, and EPA policy on SIP relaxations. EPA has determined that no increase in actual emissions over emissions on the baseline date would result from the SIP revision. The revision for alfalfa dehydrators would increase allowable emissions slightly, however the new opacity standard correlates more closely with emissions allowable from the state's process weight equation. The revision for the two existing teepee waste wood burners would result in an insignificant increase in allowable emissions. Neither relaxation of the opacity limitation would interfere with either the attainment or maintenance of any applicable ambient air quality standard.

Action

EPA approves the Nebraska SIP revision granting increases to the opacity emission limitations, as described above, for existing teepee waste wood burners and existing alfalfa dehydration plants.

Because considerable time has elapsed between the notice of proposed rulemaking and final action, EPA is taking final action but providing a mechanism for additional public comment. The public should be advised that this action will be effective (March 23, 1982). However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the subject SIP approval will not have a significant economic impact on a substantial number of small entities. The reason for this determination is that it imposes no additional regulatory burden on sources.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This rule is not "major" because it imposes no additional substantive requirements which are not currently applicable under State law. Hence it is unlikely to have an annual effect on the economy of $100 million or more, or to have other significant adverse impacts on the national economy.

Under section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2), 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.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: January 18, 1982.

Note.—Incorporation by reference of the State Implementation Plan for the State of Nebraska was approved by the Director of the Federal Register on July 1, 1981.

Anne M. Gorsuch,

Administrator.

40 CFR Part 52 is amended by adding § 52.1420(c)(22) to read as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

§ 52.1420 Identification of Plan

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(22) Revised Rule 13, granting an increase in the visible emission limitations for existing teepee waste wood burners and alfalfa dehydrators, was submitted by the Governor on December 29, 1977.

[FR Doc. 82-1610 Filed 1-21-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL-2020-7]

Ohio: Revision: Arco Pipeline Company Variance: for Pipeline Working Tank, Toledo, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On August 27, 1981, the State of Ohio submitted a revision of its ozone State Implementation Plan (SIP) to the Environmental Protection Agency (EPA). The SIP revision is a variance for the Pipeline Working (SLOP) Tank, a fixed roof storage tank, located at the ARCO Pipeline Refinery in Lucas County, Ohio, a primary nonattainment area for ozone. EPA has reviewed this variance and has determined that the affected county will attain the national ambient air quality standard (NAAQS) for ozone by December 31, 1982 and that reasonable further progress (RFP) is also demonstrated. Therefore, EPA approves this variance and announces final rulemaking today on this revision. This action is effective March 23, 1982, unless notice is received by February 22, 1982 that someone wishes to submit adverse or critical comments.

DATE: March 23, 1982.

ADDRESSES: Copies of additional information are available at the following addresses:

Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

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

State of Ohio, Environmental Protection Agency, Box 1049, 361 East Broad Street, Columbus, Ohio 43216

Request for comments on this final proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Anne Ernstein, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6036.

SUPPLEMENTARY INFORMATION: On August 27, 1981, the State of Ohio submitted a revision to its ozone SIP. The SIP revision is for the Pipeline Working (SLOP) Tank, a fixed roof storage tank, located at the ARCO Pipeline Company in Lucas County (Toledo Urban Area), Ohio, a primary nonattainment area for ozone. The variance is to operate the fixed roof storage tank without controls. Ohio's ozone SIP for this county was approved on October 31, 1980 (45 FR 72122). According to the ozone SIP, Lucas County will attain the ozone NAAQS by December 31, 1982.

The August 27, 1981 SIP revision is in the form of a variance from Ohio Rule 3745–17–09(L) Storage of Petroleum Liquids in Fixed Roof Tanks. This rule requires the installation of an internal floating roof or equivalent control.

However, ARCO requests this variance to operate at status quo emission levels, without controls, on the basis that compliance with the control requirements is economically unreasonable. ARCO estimates that the annual uncontrolled rate of emissions from this source is 1.29 tons per year and a controlled rate of 0.42 tons/year with the use of an internal floating roof. As a result, the cost-effectiveness of installing reasonably available control technology (RACT) would be $1860/ton of VOC removed.

The State believes that the installation of an internal floating roof is economically unreasonable, since the emission rates are relatively small, and the control costs are relatively high. Because of this, the State has concluded that for this specific source, RACT is no controls.

EPA has reviewed this variance and the State's documentation concerning RACT for this source and concurs with the States conclusion. In addition, EPA has reviewed the existing ozone SIP for Lucas County and determined that it contains a growth margin of over 1,740 tons and that reasonably further progress towards attainment by December 31, 1982 is presented. Based on this information, EPA approve this variance.

This is being done without prior proposal because the revision affects only one source and will not affect attainment of the standard. The public should be advised that this action will be effective March 23, 1982. However, if EPA is notified within 30 days, that someone wishes to submit adverse or critical comments, this action will be withdrawn and subsequent notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Pursuant to the provisions of the (5 U.S.C. 605(b)), I hereby certify that this action which is being taken under sections 110 and 172 of the Act will not, if promulgated, have a significant economic impact on a substantial number of small entities. Today's action only proposes to approve a State action, and therefore imposes no new requirements under section 110 of the Act.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation will not be "major" as defined by Executive Order 12291, because this action only approves a State action. This regulation is exempted from review by the Office of Management and Budget (OMB) under Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act judicial review of this final action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the 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.

Note.—Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110 and 172 of the Act as amended (42 U.S.C. 7410 and 7502))

Dated: January 18, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

1. Section 52.1870(c) is amended by adding paragraph 39 as follows:

§ 52.1870 Identification of the plan.

* * * * *

(c) * * *

(39) On August 27, 1981, the State of Ohio submitted a variance for the Pipeline Working Tank at the ARCO Pipeline Refinery in Lucas County, Ohio.

* * * * *

[FR Doc. 82–1620 Filed 1–21–82; 8:45 am]

BILLING CODE 6560–38–M

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40 CFR Part 52

[A–6–FRL–2023–1]

Approval and Promulgation of Implementation Plans; Approval of Louisiana Compliance Schedules

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice approves Louisiana's request to revise its State Implementation Plan (SIP) to include Shell Oil's compliance plan for the Kenner bulk terminal and for 128 gasoline service stations located throughout 19 parishes. The compliance schedules will allow Shell Oil to install vapor control equipment to come into compliance with Regulation 22 for the control of hydrocarbon emissions. Final compliance is required on September 1, 1982. These schedules are approved on the basis that Shell's compliance plan meets the requirements of Louisiana's SIP for hyrdocarbon controls at the affected facilities. This action will be effective on March 23, 1982 unless notice is received on or before February 22, 1982, that someone wishes to submit adverse or critical comments.

DATE: This action is effective March 23, 1982.

ADDRESSES: Written comments should be addressed to Estela Wackerbarth of the EPA Region VI Air Programs Branch (address below). Copies of the materials submitted by Louisiana 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

Library, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270

Air Quality Division, Louisiana Air Control Commission, P.O. Box 44066, Baton Rouge, Louisiana 70804

FOR FURTHER INFORMATION CONTACT: Estela Wackerbarth at the EPA Region VI address above or call 214/767-1518 (FTS 729-1518).

SUPPLEMENTARY INFORMATION: Section 110(a)(3)(A) of the Clean Air Act, amended 1977, directs the Adminstrator to approve revision of an implementation plan applicable to an air quality control region, if she determines the plan has been adopted by the State after reasonable notice and public hearing, and that it includes emission limitations, schedules, and timetables for compliance with such limitations and such other measures as may be necessary to insure attainment and maintenance of the applicable air quality standard. The regulation which EPA promulgated to implement this portion of the Air Act are set forth at 40 CFR 51.

The compliance schedules being approved today apply to Shell Oil's Kenner bulk gasoline terminal at Kenner, Louisiana and to 128 service stations located throughout the following parishes: Jefferson, Orleans, St. Tammany, St. John the Baptist, St. Charles, St. Bernard, Plaquemines, East Baton Rouge, West Baton Rouge, Calcasieu, Lafayette, St. Martin, Bossier, and Caddo. On July 22, 1980 the Louisiana Air Control Commission adopted, after adequate notice and public hearing, compliance schedules which will allow Shell Oil from June 1, 1981 to September 1, 1982 to come into compliance with Louisiana Regulation 22 for the control of hydrocarbons. Regulation 22 was approved by EPA on February 14, 1980 (at 45 FR 9903) as part of Louisiana's SIP to demonstrate attainment of the ozone National Ambient Air Quality Standard (NAAQS) by December 31, 1982. Shell Oil Company will install vapor control equipment for their Kenner Marketing Bulk Gasoline Terminal and Stage 1 Equipment (Vapor Balance) for their 128 Service Stations located in the 19 parishes.

The compliance schedules were submitted to EPA on September 12, 1980 and additional information was submitted on September 17, 1981. EPA reviewed [1] the schedules and supporting documentation, and finds that the State's submittal of compliance schedules has legally enforceable increments of progress, certification of a public hearing and requires a determination of final compliance by facility inspection. Based upon these findings, EPA is today approving the compliance schedules as a revision to the Louisiana State Implementation Plan.

EPA's review of the materials submitted has shown that it is a noncontroversial, nonmajor SIP revision. Because EPA does not anticipate that this rulemaking will generate adverse public comments, the compliance schedules for Shell Oil Company is being approved today without a prior proposed rulemaking. The public should be advised that this action will be effective March 23, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves a State action; it will impose no new regulatory requirements. In addition, this action only applies to one facility.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not major because it merely approves a State action. It imposes no regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, judicial review of this final rulemaking is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today.

Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Sec. 110 of the Clean Air Act, as amended, 42 U.S.C. 7410)

Dated: January 18, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart T of Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended by adding (c) to § 52.980 as follows.

§ 52.980 Compliance schedules.

* * * * *

(c) The compliance schedules below for Shell Oil Company is approved as a revision to the plan pursuant to §§ 51.6 and 51.15 of this chapter. The regulation cited is an approved regulation of the State.

Source	Location	Regulation	Final compliance date
(1) Bulk gasoline terminal	Kenner	22.15	Sept. 1, 1982.
(2) 128 gasoline service stations	Parishes: Jefferson, Orleans, St. Tammany, St. John the Baptist, St. Charles, St. Bernard, Plaquemines, East Baton Rouge, West Baton Rouge, Calcasieu, Lafayette, St. Martin, Bossier, Caddo.	22.14	Sept. 1, 1982.

[FR Doc. 82-1618 Filed 1-21-82; 8:45 am]

BILLING CODE 6560-38-M

[1] EPA Evaluation Report of Louisiana's request for variance for Shell Oil Company, dated September, 1981. This report is available for public inspection during normal business hours at the EPA libraries listed in the address section of the notice.

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-6228]

Suspension of Community Eligibility Under the National Flood Insurance Program; Florence, Alabama, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended effective the dates listed within this rule because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In

return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

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

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the Nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

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

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Alabama:					
Lauderdale	Florence, city of	010140C	May 24, 1973, emergency, May 2, 1977, regular, Jan. 20, 1982, suspended.	May 17, 1974, Mar. 26, 1976, May 2, 1977.	Jan. 20, 1982.
Montgomery	Montgomery, city of	010174D	Feb. 12, 1974, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	June 28, 1974, Jan. 9, 1976, Mar. 9, 1979, May 10, 1977.	Do.
Arkansas: Pulaski	Alexander, city of	050377A	Sept. 26, 1980, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Apr. 18, 1975	Do.
California: Imperial	Holtville, city of	060070B	July 10, 1975, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Apr. 5, 1974, Dec. 5, 1975	Do.
Florida: Hendry	Labelle, city of	120109B	July 30, 1974, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Jan. 16, 1974, Feb. 13, 1976	Do.
Idaho:					
Nez Perce	Culdesac, city of	160102B	Nov. 14, 1974, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Oct. 18, 1974, Dec. 12, 1975	Do.
Do	Lewiston, city of	160104B	July 26, 1974, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Aug. 16, 1974, May 28, 1976	Do.
Do	Peck, city of	160105B	June 11, 1975, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Aug. 16, 1974, Jan. 16, 1976	Do.
Illinois: Rock Island	Andalusia, village of	170583B	Feb. 18, 1975, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Mar. 15, 1974, June 18, 1976	Do.
New Jersey:					
Monmouth	Millstone, township of	340314B	July 23, 1975, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Mar. 29, 1974, May 14, 1976	Do.
Gloucester	Monroe, township of	340208B	Aug. 12, 1974, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Sept. 20, 1974, Jun. 25, 1976	Do.
Bergen	Northvale, borough of	340056B	Jan. 15, 1974, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Aug. 31, 1973, July 30, 1976	Do.
Camden	Winslow, township of	340148B	July 31, 1975, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	July 26, 1974, July 30, 1976	Do.
Burlington	Woodland, township of	340551A	Feb. 19, 1976, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Apr. 25, 1975	Do.
New York:					
Erie	Hamburg, village of	360243B	Oct. 29, 1976, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Oct. 29, 1976, Feb. 17, 1977	Do.
Livingston	Leicester, town of	361285B	Mar. 24, 1978, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Oct. 18, 1974, Aug. 20, 1976	Do.
Oswego	West Monroe, town of	360664B	Oct. 3, 1975, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Sept. 20, 1974, Aug. 6, 1976	Do.
Livingston	York, town of	361289A	July 7, 1975, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Nov. 29, 1974	Do.
North Carolina:					
Henderson	Hendersonville, city of	370128B	Apr. 2, 1975, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	July 29, 1977	Do.
Nash	Unincorporated areas	370278B	Jan. 10, 1974, emergency, June 1, 1978, regular, Jan. 20, 1982, suspended.	June 1, 1978	Do.
Nash	Rocky Mount, city of	370092C	Jan. 17, 1974, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Mar. 1, 1974, May 21, 1976	Do.
Greene	Snow Hill, town of	370110B	Dec. 24, 1974, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Dec. 28, 1973, Oct. 10, 1975	Do.
Oklahoma:					
Oklahoma	Nichols Hills, city of	400423A	Dec. 19, 1974, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Dec. 20, 1974	Do.
Leflore	Poteau, city of	400093A	Nov. 24, 1975, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Nov. 1, 1974	Do.
Pennsylvania:					
Montgomery	Upper Hanover, township of	421917A	Nov. 22, 1974, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Nov. 22, 1974	Do.
Fayette	Washington, township of	421641A	Feb. 21, 1975, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Dec. 20, 1974	Do.
Tennessee: Shelby	Germantown, city of	470353B	Oct. 1, 1975, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	Sept. 15, 1978	Do.
Texas: Bee	Beeville, city of	480027B	Jan. 14, 1974, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	May 10, 1974, Jan. 23, 1976	Do.
Vermont: Franklin	Fairfax, town of	500052B	July 7, 1975, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended.	May 17, 1974, May 22, 1976	Do.

[1] Date certain Federal assistance is no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 28, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1556 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6229]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program; Attala, Alabama, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

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

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

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

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

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

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

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

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

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

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Alabama:				
Etowah	Attalla, city of	010079B	Dec. 1, 1981, suspension withdrawn	Dec. 28, 1973 and Dec. 26, 1975.
Do.	Glencoe, city of	010081C	do.	May 17, 1974 and Dec. 19, 1975.
Baldwin	Bay Minette, city of	010004A	do.	Oct. 24, 1975.
Do.	Loxley, town of	010009B	do.	June 28, 1974 and Dec. 19, 1975.
Do.	Robertsdale, city of	010222B	do.	Jan. 28, 1977.
Connecticut:				
Windham	Ashford, town of	090165C	do.	Nov. 8, 1974, Nov. 19, 1976 and May 30, 1978.
New London	Franklin, town of	090154B	do.	Nov. 1, 1974 and Nov. 26, 1976.
Florida: Orange	Unincorporated areas	120179B	do.	Jan. 30, 1976 and Apr. 15, 1977.
Illinois:				
Winnebago	Pecatonica, village of	170797B	do.	Apr. 5, 1974 and Apr. 2, 1976.
St. Clair	Swansea, village of	170637B	do.	Apr. 5, 1974 and June 4, 1976.
Lake	Wauconda, village of	170396B	do.	Apr. 5, 1974 and Mar. 19, 1976.
Kane	West Dundee, village of	170335B	do.	Apr. 5, 1974 and Mar. 19, 1976.
Indiana: Vigo	Terre Haute, city of	180264B	do.	Jan. 9, 1974 and June 11, 1976.
Kansas: Shawnee	Topeka, city of	205187C	do.	Dec. 23, 1971, July 1, 1974, Oct. 10, 1975 and Dec. 16, 1977.
Massachusetts: Worcester	Warren, town of	250342B	do.	May 17, 1974 and Aug. 27, 1976.
Michigan:				
Wayne	Flat Rock, city of	260224B	do.	May 17, 1974 and June 18, 1976.
Oakland	Franklin, village of	260325A	do.	Apr. 11, 1975.
Missouri: Boone	Columbia, city of	290036B	do.	Aug. 28, 1971, July 1, 1974, and Jan. 16, 1976.
New Jersey: Hunterdon	Bloomsburg, borough of	340231B	do.	June 14, 1974, and Aug. 6, 1976.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
New York:				
Orange	Monroe, town of	360621B	do	June 28, 1974, and Aug. 6, 1976.
Cayuga	Union Springs, village of	360129C	do	Apr. 11, 1975, Oct. 17, 1975, and Feb. 13, 1976.
North Carolina:				
Alamance	Unincorporated areas	370001B	do	Jan. 3, 1975, and Dec. 23, 1977.
Stanly	Albermarle, city of	370146B	do	Dec. 28, 1973, Apr. 23, 1976, and June 3, 1977.
Stanly	do	370361A	do	June 9, 1979.
Oregon: Yamhill	Amity, city of	410250A	do	July 30, 1976.
Pennsylvania:				
York	Manchester, township of	420931B	do	Feb. 1, 1974, and June 17, 1977.
Adams	Mt. Pleasant, township of	421258A	do	Feb. 7, 1975.
Do	Oxford, township of	420003B	do	Dec. 28, 1973, and Dec. 3, 1976.
Lebannon	Swatara, township of	420582B	do	Feb. 1, 1974, and Aug. 19, 1977.
South Carolina: Florence	Florence, city of	450078B	do	May 31, 1974, Oct. 31, 1975, and Oct. 6, 1978.
South Dakota: Lawrence	Spearfish, city of	460046B	Dec. 2, 1981, suspension withdrawn	Mar. 29, 1974, and Sept. 2, 1981.
Virginia: Prince William	Unincorporated areas	510119B	Dec. 1, 1981, suspension withdrawn	Jan. 10, 1976, and Dec. 17, 1976.
Washington: Island	Unincorporated areas	530312B	do	Oct. 25, 1977.
Wisconsin: Columbus	Columbus, city of	550058B	do	Dec. 17, 1973, and June 25, 1976.
Michigan: Baraga	Baraga, village of	260551	Dec. 3, 1981, emergency	Oct. 31, 1975.
Minnesota: Olmsted	Eyota, city of	270329A	do	Apr. 12, 1974.
Pennsylvania:				
Allegheny	Marshall, township of	421080B	Apr. 22, 1975, emergency, Nov. 4, 1981, regular, Nov. 4, 1981, suspended, Dec. 3, 1981, reinstated.	Sept. 20, 1974, and Sept. 24, 1976.
Lackawanna	Moscow, borough of	420534B	Dec. 10, 1974, emergency, Dec. 1, 1981, regular, Dec. 1, 1981, suspended, Dec. 11, 1981, reinstated.	Jan. 16, 1974, and May 14, 1976.
Michigan: Oakland	Huntington Woods, city of	260723 New	Dec. 22, 1981, emergency	Do.
Pennsylvania: Indiana	Washington, township of	421722	do	Dec. 22, 1974.
Vermont: Orleans	Newport, town of	500256B	do	Nov. 1, 1974, Dec. 17, 1976, and Sept. 6, 1977.
Idaho: Cassia	Albion, city of	160042	Dec. 23, 1981, emergency	Jan. 10, 1975.
Texas:				
Tarrant, Parker, and Wise	Briar, town of	480588	Dec. 18, 1981, emergency	July 23, 1976.
Tarrant	Haslet, city of	480600	do	Nov. 1, 1974.
Grayson	Whitewright, city of	480839	do	Nov. 5, 1976.
Indiana: Hancock	Greenfield, city of	180084C	July 25, 1975, emergency, Nov. 4, 1981, regular, Nov. 4, 1981, suspended, Dec. 9, 1981, reinstated.	Nov. 23, 1973, Sept. 24, 1976, and Feb. 3, 1978.
Kentucky: Lawrence	Louisa, city of	210241A	Aug. 8, 1975, emergency, Nov. 19, 1980, regular, Nov. 19, 1980, suspended, Dec. 23, 1981, reinstated.	Feb. 8, 1974, and Oct. 29, 1976.
Wisconsin: Winnebago	Winneconne, village of	550512B	Aug. 15, 1975, emergency, Aug. 1, 1980, regular, Aug. 1, 1980, suspended, Dec. 23, 1981, reinstated.	Jan. 6, 1974, and Oct. 1, 1976.
Ohio: Montgomery	Germantown, village of	390411B	Jan. 16, 1975, emergency, Jul. 2, 1981, regular, Jul. 2 1981, suspended, Dec. 28, 1981, reinstated.	June 28, 1974, and May 28, 1976.
Pennsylvania:				
Delaware	Millborune, borough of	422408C	Aug. 7, 1975, emergency, Dec. 15, 1981, regular, Dec. 15, 1981, Suspended, Dec. 28, 1981, reinstated.	Jan. 24, 1975 and Sept. 22, 1978.
Columbia	Beaver, township of	421547A	Dec. 29, 1981, emergency	Nov. 1, 1974, and July 9, 1976.
Texas:				
Fort Bend	Burlington Colony municipal utility district.	481575 New	do	Do.
Do	Cherry Hill municipal utility district	481573 New	do	Do.
Do	Chimney Rock municipal utility district.	481574 New	do	Do.
Do	Court Road municipal utility district	481576 New	do	Do.
New Hampshire: Coos	Whitefield, town of	330040B	Dec. 31, 1981, emergency	Jul. 26, 1974, Nov., 26, 1976, and Sept. 21, 1979.
Alabama: Mobile	Creola, town of	010409D	Dec. 31, 1981, emergency, Apr. 1, 1981	Dec. 31, 1981, Regular.
New Jersey:				
Monmouth	Englishtown, borough of	340294A	Aug. 18, 1975, emergency, Mar. 16, 1981, regular, Mar. 16, 1981, suspended, Dec. 31, 1981, reinstated.	Nov. 5, 1976.
Bergen	Fairlawn, borough of	340033B	Apr. 4, 1974, emergency, Jul. 2, 1981, regular, Dec. 28, 1973 Feb. 6, 1976. Jul. 2, 1981, suspended, Dec. 31, 1981, reinstated..	
Warren	Harmony, township of	340485C	Aug. 6, 1974, emergency, Nov. 4, 1981, regular, Nov. 4, 1981, suspended, Dec. 31, 1981, reinstated.	Aug. 16, 1974, July 30, 1976, and Jan. 14, 1977.
Camden	Woodlynne, borough of	340149B	June 24, 1975, emergency, Dec. 1, 1981, regular, Dec. 1, 1981, suspended, Dec, 31, 1981, reinstated.	June 28, 1974 and April 16, 1976.
North Carolina: Lincoln	Unincorporated areas	370146B	Jan. 27, 1976, emergency, Dec. 1, 1981, regular, Dec. 1, 1981, suspended, Dec. 31, 1981, reinstated.	Dec. 27, 1974 and May 26, 1978.
Illinois: St. Clair	do	170616A	Dec. 15, 1981, suspension withdrawn	May 21, 1976.
Indiana: Boone	Zionsville, town of	180016B	do	Apr. 12, 1974 and Aug. 6, 1976.
Louisiana: Tangipahoa	Hammond, city of	220208B	do	Mar. 8, 1974 and June 4, 1976.
New Jersey:				
Hunterdon	Bethlehem, township of	340554B	do	Nov. 22, 1974, and Oct. 31, 1975.
Bergen	Hillsdale, borough of	340043B	do	Jan. 16, 1974, and Sept. 24, 1976.
Somerset	Raritan, borough of	340442B	do	May 3, 1974, and Mar. 19, 1976.
Burlington	Washington, township of	340117B	do	July 26, 1974, and June 25, 1976.
Bergen	West Paterson, borough of	340412B	do	June 28, 1974, and June 18, 1976.
Ohio:				
Montgomery	Unincorporated areas	390775B	do	June 2, 1978.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Do	Riverside, village of	390416B	do	Feb. 15, 1974, and Nov. 21, 1975.
Oregon: Linn	Lyons, city of	410142C	do	Mar. 8, 1974, Apr. 21, 1975, and Apr. 8, 1977.
Pennsylvania:				
Northampton	Lehigh, township of	421931A	do	Nov. 15, 1974.
Westmoreland	New Stanton, borough of	420892B	do	Aug. 2, 1974, and Oct 31, 1975.
Lebanon	South Lebanon, township of	420581B	do	Dec. 28, 1973, and Feb. 11, 1977.
Westmoreland	Upper Burrell, township of	422195B	do	Sept. 20, 1974, and May 28, 1976.
Erie	Waterford, borough of	420454B	do	May 10, 1974, and May 28, 1976.
Vermont: Lamoille	Hyde Park, village of	500231B	do	Dec. 6, 1974, and May 24, 1977.
Washington: Pierce	South Prairie, town of	530145A	do	Nov. 19, 1976.
Minnesota: Isanti	Unincorporated areas	270197A	do	May 19, 1981.

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

Issued: December 28, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1556 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 6226]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program; Auburn, California, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Director, Federal Emergency Management Agency, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATE: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood-prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, requires, at section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) for acquisition and construction of buildings, and

(2) for buildings located in a special flood hazard area identified by the Director of Federal Emergency Management Agency

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Emergency Management Agency's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number and a FIRM by the letter "R" following the community number. If the FEMA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 44 CFR Part 59 et seq.).

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities. As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. Accordingly, Subchapter B of Chapter I of title 44 of the Code of Federal Regulations is amended as follows:

1. Present § 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).*

The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 5149
40 FR 17015
40 FR 20798
40 FR 46102
40 FR 53579
40 FR 56672
41 FR 1478
41 FR 50990
41 FR 13352
41 FR 17726
42 FR 8895
42 FR 29433
42 FR 46226
42 FR 64076
43 FR 24019
44 FR 815
44 FR 6383
44 FR 18485
44 FR 25636
44 FR 34120
44 FR 52835
44 FR 57094
45 FR 12421
45 FR 26051
45 FR 31318
45 FR 34120
45 FR 49570
45 FR 52385
46 FR 13695
46 FR 20176
46 FR 26776

46 FR 46810
47 FR 3121

(b) *Flood Insurance Rate Maps (FIRM's)*

The following is a cumulative list of withdrawals pursuant to this Part:
40 FR 17015
41 FR 1478
42 FR 49811
42 FR 64076
43 FR 24019
44 FR 25636
45 FR 12421
45 FR 49570
46 FR 20176
46 FR 46810
47 FR 3121

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made pursuant to § 65.6:

State	Community name and No.	County	Hazard identification date	Rescission date	Reason
California	City of Auburn, 060240B C (R)	Placer	June 30, 1976	Dec. 23, 1981	2
Do.	City of Upland, 065067A C (R)	San Bernardino	July 19, 1977	do	2
Florida	Town of Painter-Hills, 120571 A	Flagler	Aug. 5, 1977	do	1
Michigan	Village of Barryton, 260583A	Mecosta	May 20, 1977	do	1
Do.	Township of Casco, 260506A	St. Clair	Mar. 4, 1977	do	1
Do.	Township of Evergreen, 260516	Sanilac	Oct. 22, 1976	do	1
Do.	Township of Gilead, 260360	Branch	Nov. 26, 1976	do	1
Do.	Township of Heath, 260347	Allegan	Aug. 22, 1975	do	1
Do.	Village of Jonesville, 260408	Hillsdale	Sept. 26, 1975	do	1
Do.	Township of Mayfield, 260436A	Lapeer	May 19, 1978	do	1
Do.	Township of Moore, 260517A	Sanilac	May 27, 1977	do	1
Do.	Township of Pine Grove, 260534	Van Buren	July 25, 1975	do	1
Do.	Township of Richfield, 260402	Genesee	July 11, 1975	do	1
Do.	Township of Thetford, 260683A	Genesee	Feb. 10, 1978	do	1
Do.	Township of Van Buren, 260546A	Wayne	Apr. 8, 1977	do	1

Key to Symbols:
E The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.
R The community is participating in the Regular Program.
1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
2. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
3. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.
4. The Community lacked land-use authority over the special flood hazard area.
5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.) A new FHBM will be prepared and distributed.
6. The Flood Insurance Rate Map was rescinded because of inaccurate flood elevations contained on the map.
7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.
8. The T&E or H&E Map was rescinded.
9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.
10. Miscellaneous.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 31, 1981.

Lee Thomas,

Associate Director, State and Local Programs, and Support.

[FR Doc. 82-1557 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 65

[Docket No. FEMA-6230]

Communities with Minimal Flood Hazard Areas for the National Flood Insurance Program; Franklin Park, Pennsylvania, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

Effective date: Date listed in fourth column of list of Communities with Minimal Flood Hazards Areas.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazards areas of the

specified community and imposes no new requirements or regulations on participating communities.

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State	County	Community	Date of conversion to regular program
Pennsylvania	Allegheny	Borough of Franklin Park.	Jan. 1, 1982.
Pennsylvania	Bradford	Borough of Troy.	Jan. 1, 1982.
Pennsylvania	Westmoreland	Borough of Avonmore.	Jan. 20, 1982.
Pennsylvania	Luzerne	Borough of Courtdale.	Jan. 20, 1982.
Pennsylvania	Luzerne	Township of Fairview.	Jan. 20, 1982.
Pennsylvania	Lebanon	Township of Heidelberg.	Jan. 20, 1982.
Pennsylvania	Westmoreland	Township of Loyalhanna.	Jan. 20, 1982.
Pennsylvania	Blair	Borough of Martinsburg.	Jan. 20, 1982.
Pennsylvania	Delaware	Borough of Media.	Jan. 20, 1982.
Pennsylvania	York	Borough of New Freedom.	Jan. 20, 1982.
Pennsylvania	Luzerne	Borough of Nuangola.	Jan. 20, 1982.
Pennsylvania	Lycoming	Borough of Salladasburg.	Jan. 20, 1982.
Pennsylvania	Lackawanna	Township of Springbrook.	Jan. 20, 1982.
Pennsylvania	Lackawanna	Township of West Abington.	Jan. 20, 1982.
Pennsylvania	Westmoreland	Borough of Youngstown.	Jan. 20, 1982.
Maryland	Caroline	Town of Hillsboro.	Feb. 12, 1982.
Pennsylvania	Northhampton	Borough of East Bangor.	Feb. 12, 1982.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: December 28, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1550 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

Final Flood Elevation Determinations; Lufkin, Texas

AGENCY: FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Agency has resolved the appeals presented by the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prescribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county (docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Lufkin, Angelina County (FEMA-5911)	Hurricane Creek	Just downstream of State Highway Loop 287	*249
			Just downstream of Tulane Drive	*268
			Just downstream of U.S. Highway 59 (Timberland Drive).	*280
		Hurricane Creek East Tributary North.	Just downstream of Chestnut Street	*280
			Just downstream of U.S. Highway 69 (Denman Avenue).	*285
		Hurricane Creek East Tributary (E)	Just downstream of State Highway 35	*244
		Hurricane Creek East Tributary (S)	Just downstream of U.S. Highway 59	*254

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Hurricane Creek West Branch	Just upstream of Temple Drive	*266
		Cedar Creek	At Hank Street	*240
		.....	Just upstream of State Highway Loop 287	*255
		.....	Just upstream of Franklin Street	*276
		Cedar Creek North Tributary	Just downstream of Texas Southern Railroad	*278
		Cedar Creek South Tributary	Just downstream of F.M. 271	*260
		.....	Just upstream of Texas Southern Railroad	*273
		Paper Mill Creek Tributary	Just upstream of State Highway 287	*259
		Tributary to Paper Mill Creek Tributary.	Just upstream of State Highway 103 (Atkinson Drive)	*273
		Mill Creek Tributary	Just downstream of Angelina and Neches River Railroad.	*274
		Tributary to Mill Creek Tributary	Just upstream of Sayers Street	*282

Maps available for inspection at City Hall, 300 East Shepard Street, Lufkin, Texas 75901.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: December 28, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–1551 Filed 1–21–82; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for Larimer County, Colorado, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Larimer County, Colorado. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Larimer County, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0270.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 080101 Panel 0179B, published on October 6, 1980, in 45 FR 66109, indicates that Lots 176, 179, 244, and 245, Plat of Countryside Park, Phase III, Larimer County, Colorado, as recorded in Book 1871, Page 255, in the Office of the Clerk and Recorder, Larimer County, Colorado, are within the Special Flood Hazard Area.

Map No. H & I 080101 Panel 0179B is hereby corrected to reflect that the existing structures located on the above mentioned lots are not within the Special Flood Hazard Area identified on April 2, 1979. These structures are in Zone C.

Pursuant to provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 21, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–1553 Filed 1–21–82; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA–5997]

Letter of Map Amendment for the City of Story City, Iowa, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Story City. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Story City, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquistion purposes.

EFFECTIVE DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E. Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 190259 Panel 0001B, published on February 24, 1981, in 46 FR 13694, indicates that Lots 1 through 3, Munsen Subdivision No. 1, Story City, Iowa, recorded as Instrument Number 01877, Book 6, Page 122, in the Office of the Recorder, Story County, Iowa, are within the Special Flood Hazard Area.

Map No. H & I 190259 Panel 0001B is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on January 16, 1981. These lots are in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 21, 1981

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1552 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the Town of Bridgewater, Vermont Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Town of Bridgewater, Vermont. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Town of Bridgewater, Vermont, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The Map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 500144, Panel 0015 B, published on October 6, 1980, in 45 FR 66025, indicates that Hattie Rowe's property, as recorded in Land Records Book 40, Page 324 in the Bridgewater Town Clerk's Office is within the Special Flood Hazard Area.

Map Number H & I 500144, Panel 0015 B, is hereby corrected to reflect that the existing house on the above-mentioned property is not located within the Special Flood Hazard Area identified on July 2, 1980. The house is located in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 21, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1554 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

Proposed Rules

Federal Register
Vol. 47, No. 15
Friday, January 22, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Ch. I

Food Grading Policy

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of rulemaking proceeding.

SUMMARY: This document terminates a rulemaking proceeding initiated through an advance notice of proposed rulemaking published May 30, 1980, (45 FR 36417), which contained options for possible changes in the Department's food grading policy. This action is taken because after careful review and study of the issue, the benefits to be derived from any of the possible options would not offset associated costs, disruptions, and inconveniences. Present grade terminology has been used since the inception of the grading programs in the early 1900's. A change in these grade terms for uniformity would require reeducation of users, complete labeling changes for some commodities, and other costly and disruptive situations. Therefore, the Agency decided to make no change in the present system of grade terms. The Agency wishes to make available an Option Paper: Uniform Grade Nomenclature, November 1981, which is the basis for this decision and includes the history and status of grading and grade labeling, the proposed options for change, the public response to those options, and potential impacts of the proposals on Government and industry.

ADDRESS: The Option Paper: Uniform Grade Nomenclature, November 1981, is available upon request from the Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: H. Connor Kennett, Jr., Director, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3932, South Agriculture Building, Washington, D.C. 20250, (202) 447–4476.

Accordingly, the rulemaking proceeding initiated through the advance notice of proposed rulemaking, FR Doc. 80–16429, published May 30, 1980, (45 FR 36417), is terminated.

Done at Washington, D.C., on: January 19, 1982.

Mildred Thymian,

Administrator, Agricultural Marketing Service.

[FR Doc. 82–1666 Filed 1–21–82; 8:45 am]

BILLING CODE 3410–02–M

Rural Electrification Administration

7 CFR Part 1701

Supplemental Financing for Loans

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance Notice of Possible Rulemaking.

SUMMARY: REA is reviewing Bulletin 20–14, Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act, to consider revised criteria for distributing REA insured loans. If revised, the criteria would be consistent with the Administration's objectives and REA's long-standing policy of reducing direct assistance as borrowers develop adequate internal and financial strength. Any change will allow REA to establish criteria and priorities which better respond to the need for insured loans.

DATE: Public comments must be received by REA no later than February 22, 1982.

ADDRESS: Submit written comments to Charles R. Weaver, Director, Electric Loans and Management Division, Rural Electrification Administration, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Milton E. Wright, Chief, Borrowers Management Branch—Electric Loans and Management Division, Room 3338, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone (202) 382–1936.

SUPPLEMENTARY INFORMATION:

History: In 1971, REA began requiring its borrowers to obtain a portion of their long-term financing needs from supplemental (non-REA) sources. This action was necessitated because the demand for REA loans was increasing faster than REA's available loan resources. The maximum proportion of supplemental financing that any borrower is presently required to obtain is 30 percent.

In May of 1973, the RE Act was amended. REA was required by statute to provide 100 percent of the financing needs at a special (2 percent) interest rate for borrowers in either of the following categories: a density of two or fewer per mile of line; or an average revenue per mile of line more than $450 below the national average. In October 1976, an amendment to the RE Act replaced the revenue per mile category with an average adjusted plant revenue ratio (APRR), which relates plant investment to revenue, of over 9.0. On August 13, 1981, the RE Act was amended so that all isured loans are at a 5 percent interest rate, unless in the sole judgment of the Administrator special circumstances warrant an interest rate of between 5 percent and 2 percent.

It should be noted that a proposed rule is being published in connection with those borrowers that prior to the August 13, 1981, amendment qualified for loans at the special statutory 2 percent interest rate. It is planned that this proposed rule will be reconsidered in the review of Bulletin 20–14.

Scope: REA is requestig public comment on the following: cost to the consumer, consumers per mile of line, MWh sales per mile of line, financing priorities, revenue ratios, other financial and operating ratios, or other criteria that could be used for distributing insured loans. The desired result is to distribute the insured loans to borrowers most in need.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850 Rural Electrification Loans and Loan Guarantees. All written submissions made pursuant to this action will be made available for public inspection at the above address.

Dated: January 18, 1982

Jack Van Mark,

Acting Administrator.

[FR Doc. 82–1584 Filed 1–21–82; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 486

Municipal Waste Reprocessing Demonstration Facilities Program; Evaluation, Assessment and Reporting Guidelines

AGENCY: Department of Energy.

ACTION: Withdrawal of Notice of Proposed Rulemaking.

SUMMARY: The Department of Energy today gives notice of the withdrawal of its May 16, 1980, notice of proposed rulemaking (45 FR 32560) which set forth proposed guidelines for record retention, data collection and analysis, and reporting requirements for the assessment and evaluation of municipal waste reprocessing demonstration facilities built with Federal financial assistance under section 20 of the Federal Nonnuclear Energy Research and Development Act, as amended. The proposed guidelines are being withdrawn because the focus of the municipal waste reprocessing program has shifted from commercial demonstrations to long range and development.

EFFECTIVE DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Donald K. Walter, Supervisory Engineer, Office of Conservation and Renewable Energy, Department of Energy, Room 5G-086, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–1697. Neal J. Strauss, Carol A. Cowgill, Office of General Counsel, Department of Energy, Room 6B-158, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9513.

SUPPLEMENTARY INFORMATION: Section 20(b) (1) of the Federal Nonnuclear Energy Research and Development Act, as amended (the Act), 42 U.S.C. 5920(b)(1), (the Act) authorizes the Secretary of Energy (Secretary) to provide financial assistance to selected municipalities for the establishment of municipal waste reprocessing demonstration facilities. Under section 20(d)(1) of the Act, the Secretary may establish such guidelines as he deems necessary for obtaining pertinent information from and for evaluating and assessing federally supported facilities. On May 6, 1980, the Department of Energy (DOE) published a notice of proposed rulemaking and invited public comment on DOE's proposed guidelines (45 FR 32560). Five comments were received in response to the notice.

DOE has decided that direct Federal financial support of municipal waste reprocessing demonstration facilitates is inappropriate. DOE is of the view that market conditions brought about by realistic energy pricing policies will provide the necessary incentives for private financing of municipal waste reprocessing demonstration facilities when they are technically and economically justifiable.

DOE has shifted the focus of the muncipal waste reprocessing program to long range research and development, and accordingly there is no longer any need for evaluation, assessment, and reporting guidelines.

In consideration of the foregoing, the May 16, 1980, notice of proposed rulemaking under section 20(d)(1) of the Act is hereby withdrawn.

Issued in Washington, D.C., January 13, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82–1665 Filed 1–21–82; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 309, 311, 332, 335, 338, 345 and 349

Review of Regulations

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of regulations selected for review.

SUMMARY: This notice is made pursuant to a requirement of the Regulatory Flexibility Act to publish a list of regulations selected for review during the coming year. The regulations of FDIC are set forth in the several Parts which constitute Chapter III of Title 12 of the Code of Federal Regulations. Each Part not selected for review during 1982 will be selected for a subsequent year before the end of 1986.

ADDRESS: Comments may be mailed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Willian P. Carley, Project Specialist, Office of the Executive Secretary, (202) 389–4351.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (Pub. L. No. 96–354, 5 U.S.C. 601–612) requires FDIC to review, by September 1990, each of its existing rules which has a significant economic impact upon a substantial number of small entities. FDIC will satisfy this requirement by following the more stringent requirements of its "Statement of Policy for the Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 76858, December 28, 1979). The statement of policy requires that each rule (whether or not it has a significant economic impact on a substantial number of small entities) be reviewed at least every five years.

Reviews will address all relevant issues, including whether the regulations should be continued, revised, or eliminated. For particular regulations, reviews may include surveys directed to banks, banking associations, consumers, consumer representatives, or regulatory bodies or any combination thereof. When a review indicates an apparent need for modification or deletion of a regulation, the change will be published in the **Federal Register** in accordance with the requirements of the Administrative Procedure Act, as either a proposed rulemaking action subject to public comment or as a final rulemaking action. Each review will evaluate:

(a) The continued need for the regulation;

(b) Alternative methods of accomplishing the purpose of the regulation;

(c) The type and number of complaints or suggestions received;

(d) The need to minimize the burden imposed on those affected by the regulation, especially small banks;

(e) Possible simplification or clarification of the regulation;

(f) The need to eliminate overlapping and duplicative regulations; and

(g) The length of time since the regulation was last evaluated and the extent to which technology, economic conditions, and other factors have changed in the area affected by the regulation

In connection with the publication of its plan for the periodic review of regulations in the **Federal Register** on July 20, 1981 (46 FR 37326), the FDIC invited public comment about which FDIC regulations warrant most immediate review. The twenty-one comments received as a result of that invitation were too few to indicate if there is a prevalent opinion. Two commentators restricted their remarks to other agencies' regulations, while eight expressed a general request, without identifying particular regulations, to review all requirements that result in an excess of cost over benefits. The specific FDIC regulations singled out by the commentators for

review were: Part 338, Fair Housing (3 comments); Part 345, Community Reinvestment (4 comments); and Part 349, Reports of Indebtedness of Executive Officers and Principal Shareholders to Correspondent Banks (6 comments).

FDIC has decided to include the three regulations specifically requested by the few commentators in its 1982 review. Other selections were made with the intention of avoiding regulations which have recently undergone extensive revisions, because such revisions have already involved substantive staff analyses and opportunities for public comments and, therefore, preclude the possibility of needing significant changes at this time.

Accordingly, during 1982 FDIC will make reviews of the following:

PART 309—DISCLOSURE OF INFORMATION

Legal basis: Sec. 2(9) "Seventh" and "Tenth," Pub. L. No. 797, 64 Stat. 881, as amended by Title III; sec. 309, Pub. L. No. 95–630, 92 Stat. 3677 (12 U.S.C. 1819 "Seventh" and "Tenth"); sec. 309.5, also issued under 5 U.S.C. 552.

Description and need: This Part sets forth the basic policies of the Federal Deposit Insurance Corporation regarding information it maintains and the procedures for obtaining access to such information.

PART 311—RULES GOVERNING PUBLIC OBSERVATION OF MEETINGS OF THE CORPORATION'S BOARD OF DIRECTORS

Legal basis: 5 U.S.C. 552b and 12 U.S.C. 1819.

Description and need: This Part implements the policy of the "Government in the Sunshine Act," Section 552b of Title 5, United States Code, which is to provide the public with as much information as possible regarding the decision-making processes of certain Federal agencies, including the Federal Deposit Insurance Corporation, while preserving the rights of individuals and the ability of the agency to carry out its responsibilities.

PART 332—POWERS INCONSISTENT WITH PURPOSES OF FEDERAL DEPOSIT INSURANCE LAW

Legal basis: Secs. 6, 9, 64 Stat. 876, 881; 12 U.S.C. 1816, 1819.

Description and need: This Part identifies certain activities which banks may not engage in, because they are contrary to the Federal Deposit Insurance Act.

PART 335—SECURITIES OF NONMEMBER INSURED BANKS

Legal basis: Sec. 12(i) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 781(i)).

Description and need: This Part Implements requirements of the Securities Exchange Act of 1934 as they apply to securities of nonmember banks.

PART 338—FAIR HOUSING

Legal basis: Sec. 2, Pub. L. No. 86–671, 74 Stat. 547 (12 U.S.C. 1817); sec. 8, Pub. L. No. 797, 64 Stat. 879, as amended by sec. 202, 204, Pub. L. 89–695, 80 Stat. 1046, 1054, and sec. 110, Pub. L. No. 93–495, 88 Stat. 1506 (12 U.S.C. 1818); sec. 9, Pub. L. No. 797, 64 Stat. 881, as amended by sec. 205, Pub. L. No. 89–695, 80 Stat. 1055 (12 U.S.C. 1819); sec. 203, Pub. L. No. 89–695, 80 Stat. 1053 (12 U.S.C. 1920(b)); sec. 805, Pub. L. No. 90–284, 82 Stat. 83, 84, as amended by sec. 808, Pub. L. No. 93–383, 88 Stat. 729 (42 U.S.C. 3605, 3608); section 501, Pub. L. No. 93–495, 88 Stat. 1521, as amended by sec. 2, Pub. L. No. 94–239, 90 Stat. 251 (15 U.S.C. 1691, et seq.); 40 FR 49306, October 22, 1975, 12 C.F.R. Part 202; 37 FR 3429, February 16, 1972, 24 C.F.R. Part 110.

Description and need: This Part establishes requirements applicable to advertisements and records of banks as a means of implementing Federal statutes concerned with fair housing.

PART 345—COMMUNITY REINVESTMENT

Legal basis: Community Reinvestment Act of 1977 (Title VIII of the Housing and Community Development Act of 1977, Pub L. No. 95–128; 91 Stat. 1147, et seq. (12 U.S.C. 2901, note)).

Description and need: This Part provides guidance to banks as to how the FDIC will assess the records of insured State nonmember banks in satisfying their continuing and affirmative obligations to help meet the credit needs of the local communities, including low- and moderate-income neighborhoods, consistent with safe and sound operations of those banks, and provides for taking into account those records in connection with certain applications.

PART 349—REPORTS OF INDEBTEDNESS OF EXECUTIVE OFFICERS AND PRINCIPAL SHAREHOLDERS TO CORRESPONDENT BANKS

Legal basis: Title VIII of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA," Pub. L. No. 95–630, 12 U.S.C. 1972(2)), and under authority of Sections 7(a) and 9 (Tenth) of the Federal deposit Insurance Act, 12 U.S.C. 1817(a), 1819 (Tenth).

Description and need: This Part implements the reporting requirements of Title VIII of FIRIRCA as they apply to insured State Nonmember banks. Title VIII prohibits (1) preferential lending by a bank to executive officers, directors and principal shareholders of another bank when there is a correspondent account relationship between the banks, or (2) the opening of a correspondent account relationship between banks when there is a preferential extension of credit by one of the banks to an executive officer, director or principal shareholder of the other bank. Title VIII imposes requirements on executive officers and principal shareholders to submit reports on their indebtedness to correspondent banks.

By order of the Board of Directors, January 18, 1982.

Federal Deposit Insurance Corporation,

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82–1581 Filed 1–21–82; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 14

Proposed Statement of Enforcement Policy Regarding Truth-in-Lending

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed statement of enforcement policy—Regulation Z.

SUMMARY: The Commission proposed a statement of enforcement policy which provides that Truth-in-Lending provisions of final cease and desist orders issued prior to April 1, 1981, will be interpreted and enforced in a manner consistent with the amendments to the law incorporated by the Truth-in-Lending Simplification and Reform Act and Revised Regulation Z. Clarification is needed because the Simplification Act and the revised regulation significantly relax current Truth-in-Lending disclosure requirements on which provisions of more than 300 outstanding FTC orders are based. However, the revised regulation does impose certain additional requirements on creditors. Under the proposed policy statement, Truth-in-Lending provisions of outstanding FTC orders will be interpreted and enforced so as to impose no greater or different disclosure obligations on creditors under order, than are required generally of creditors under the new law. From April 1, 1981, until October 1, 1982, creditors under

order, will have the option of complying with either the order as written, or the regulation as revised by the Simplification Act.

DATES: To ensure consideration, comment must be received on or before: February 22, 1982. Proposed effective date: March 23, 1982.

ADDRESSES: Comments should be mailed to William S. Sanger, Assistant Director for Compliance, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, or delivered to Suite 1100, 1726 M Street NW., Washington, D.C. between 8:30 a.m. and 5:00 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: James W. Rudasill, Jr. (202/254–9492) or George T. O'Brien (202/254–6134), Attorneys, Division of Compliance, Federal Trade Commission (BCP/PC), Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

Background

The Federal Trade Commission (FTC) has determined that there is a need to clarify the compliance responsibilities under the Truth-in-Lending Simplification and Reform Act (Simplification Act) and revised Regulation Z, of those creditors subject to FTC order which require compliance with provisions of the original statute and current regulation. Pursuant to section 108(c) of the Truth-in-Lending Act (Act), as amended (15 U.S.C. 1601), the FTC has issued more than 300 orders which enjoin various creditors from failing to comply with disclosure requirements of the Act and Regulation Z (12 CFR Part 226).

To address its perceptions of inadequacies in the current law, the Congress adopted the Truth-in-Lending Simplification and Reform Act (Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96–221, 94 Stat. 168) on March 31, 1980. The Simplification Act is the first statutory amendment to significantly reduce the disclosure requirements placed on creditors under the Truth-in-Lending Act. Although the Simplification Act amendments are not fully effective until October 1, 1982, the Act provides that an implementing revision of Regulation Z be promulgated by the Board of Governors of the Federal Reserve System ("the Board") by April 1, 1981. The Simplification Act further provides that creditors have the option of complying with either the current or the revised regulation until the current regulation expires on October 1, 1982. On that date, compliance with the revised regulation becomes mandatory.

The Board issued its revised Regulation Z (46 FR 20848) on April 1, 1981. In implementing the Simplification Act, the Board has incorporated several regulatory options into its revision of Regulation Z and has added some new disclosure requirements which must be followed. Included among the changes was the Board's decision to completely restructure the current regulation by grouping together all substantive rules for closed-end and open-end credit in separate subparts. Since it has been a standard practice of the Commission staff, during the twelve-year period in which the Act has been in effect, to incorporate specific sectional references to the current regulation in drafting provisions of FTC complaints and orders, nearly all of the sectional references to Regulation Z contained in existing FTC orders have been rendered inaccurate.

Creditors are advised to consult revised Regulation Z, itself, and the supplemental information fully explaining these changes in 46 FR 20848 (April 7, 1981). Copies of the revised regulation may be obtained from the Distribution Branch, Services Division, FTC, 6th & Pennsylvania Avenue, NW., Washington, D.C. 20580, or from Publications, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or from any Federal Reserve Bank. Moreover, the Federal Reserve Board (FRB) has published an interpretative staff commentary to revised Regulation Z which is intended as a substitute for individual interpretations of the regulation. Copies of the staff commentary may be obtained on request from the FRB, at the above address, and it is published at 46 FR 50288 (October 9, 1981).

The proposed statement of enforcement policy has two purposes: First, it provides guidance to creditors subject to outstanding FTC orders as to how they may, consistent with their compliance obligations, take advantage of the changes in the federal consumer credit disclosure requirements. And second, it functions as a cost-effective procedural means by which outstanding FTC Truth-in-Lending orders can be updated to reflect the changes in the current law.

Public Comment

Under the Administrative Procedures Act interpretative rules and statements of policy may be made effective upon publication and do not require public comment. 5 U.S.C. 535(b)(3)(A). In view of the number of orders, creditors, and other interests potentially affected by the proposed enforcement policy statement the Commission has determined that it is appropriate to allow public comment on this action. Thus, all interested parties are requested to submit their views in writing within the specified time-period.

Explanation of Policy Statement

The proposed enforcement policy statement articulates four principles and addresses the compliance obligations of affected creditors within two timeframes. In order to provide creditors an adequate transition period, the current and the revised regulations are concurrently effective from April 1, 1981, until October 1, 1982. During this period, creditors may elect to comply with either the current or the revised regulation. Creditors may begin to comply with revised Regulation Z at any time during the transition period, but they must be in compliance by October 1, 1983. The policy statement sets forth the compliance alternatives of creditors subject to Truth-in-Lending orders during the transition period and after October 1, 1982.

Briefly explained, the enforcement policy statement recognizes that many disclosure requirements imposed by existing FTC Truth-in-Lending orders have been deleted under revised Regulation Z. It clarifies that creditors under order no longer have to make disclosures required by the prior regulation which have been deleted by revised Regulation Z. However, creditors under order cannot take advantage of the simplified regulation's less burdensome disclosure requirements without also complying with the disclosure requirements which it imposes. Accordingly, the policy statement provides that once a creditor elects to comply with the revised regulation, a failure to comply with any new disclosure requirement not within the scope of the order will be considered a *de novo* violation of Sec. 5 of the Federal Trade Commission Act (15 U.S.C. 45, as amended). Creditors under order must continue to comply with any non-Truth-in-Lending requirements of the order which have not been affected by the Simplification Act, or revised Regulation Z.

Because creditors have until October 1, 1982 to commence compliance with revised Regulation Z, the interpretation of Commission orders will depend on whether the creditors elect to continue in compliance with the current order or elect to comply with the revised regulation. During the transition year, if a creditor elects to continue in compliance with the order, the order will be interpreted and enforced as written, and the creditor must continue

to comply with the order even though it may include provisions which have been eliminated under revised Regulation Z. Effective October 1, 1982, all creditors must be in compliance with revised Regulation Z, and at that time all Commission orders will be interpreted consistent with revised Regulation Z.

Staff Clarifications

Although the Commission views the principles articulated in the proposed enforcement policy statement as self-explanatory, the enforcement policy statement provides that any creditor under order may request an informal staff opinion clarifying its obligations thereunder. It indicates, however, that such requests for clarification should not take the form of formal petitions to modify the order. Requests for clarification should be made in writing and addressed to William S. Sanger, Assistant Director for Compliance, Bureau of Consumer Protection, Federal Trade Commission, 6th & Pennsylvania Avenue NW., Washington, D.C. 20580.

PART 14—ADMINISTRATIVE INTERPRETATIONS, GENERAL POLICY STATEMENTS, AND ENFORCEMENT POLICY STATEMENTS

For the reasons set forth above, 16 CFR Part 14, Chapter I, is proposed to be amended by adding a new § 14.16 as follows:

§ 14.16 Interpretation of Truth-in-Lending Orders consistent with the Truth-in-Lending Simplification and Reform Act and Revised Regulation Z.

Introduction. The Federal Trade Commission (FTC) has determined that there is a need to clarify the compliance responsibilities under the Truth-in-Lending Simplification and Reform Act of 1980 (Pub. L. 96–221, 94 Stat. 168) and revised Regulation Z (12 CFR Part 226, 46 FR 20848) of those creditors subject to final cease and desist orders issued prior to April 1, 1981, which require compliance with provisions of the original Truth-in-Lending statute and prior Regulation Z. Clarification is necessary because the Truth-in-Lending Simplification and Reform Act and revised regulation significantly relax prior Truth-in-Lending requirements on which provisions of more than 300 outstanding orders are based. The policy statement provides that the Commission will interpret and enforce Truth-in-Lending provisions of all orders issued prior to April 1, 1981, so as to impose no greater or different disclosure obligations on creditors under order, than are required generally of creditors under the new law.

Policy statement. (a) All cease and desist orders issued by the Federal Trade Commission prior to April 1, 1981, which require compliance with provisions of the Truth-in-Lending Act (Title I, Consumer Credit Protection Act, 15 U.S.C. 1601) and Regulation Z (12 CFR Part 226) will be interpreted and enforced consistent with the amendments to Truth-in-Lending incorporated by the Truth-in-Lending Simplification and Reform Act of 1980, and the revision of Regulation Z implementing the same, promulgated on April 1, 1981 (46 FR 20848) by the Board of Governors of the Federal Reserve System. Likewise, the Federal Reserve Board staff commentary to revised Regulation Z will be read into interpretation of requirements of existing orders, when published in final form.

(b) During the period April 1, 1981, to October 1, 1982, revised Regulation Z and the prior regulation are concurrently effective. Creditors under order may begin complying with the revised regulation at any time during the transition year, but they must be in compliance by October 1, 1982. The compliance alternatives of creditors subject to Commission orders during the transition year and after October 1, 1982, are as follows:

(1) During the transition year, Truth-in-Lending provisions of existing orders will be interpreted as written until such time as the creditor elects to comply with revised Regulation Z.

(2) Any creditor which elects to comply with revised Regulation Z prior to October 1, 1982, must comply with all applicable requirements of the revised regulation. Thus, in any single credit transaction creditors under order cannot take advantage of the simplified regulations' less burdensome disclosure requirements without also complying with the new disclosure requirements.

(3) Effective October 1, 1982, or at any earlier time that a creditor elects to comply with revised Regulation Z, compliance with the simplified credit disclosure requirements will be considered compliance with the existing order; and,

(i) To the extent that revised Regulation Z deletes disclosure requirements imposed by the order, compliance with these requirements may be eliminated; however

(ii) To the extent that revised Regulation Z imposes additional disclosure or format requirements, a failure to comply with the added requirements will be considered a violation of Section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(4) A creditor must continue to comply with all provisions of the order which do not relate to Truth-in-Lending requirements or are unaffected by revised Regulation Z. These provisions are not affected by this policy statement and will remain in full force and effect.

Staff clarifications. The Commission intends that this Enforcement Policy Statement obviate the need for any creditor to file a petition to reopen and modify any affected order under § 2.51 of the Commission rules of practice. However, the Commission recognizes that the policy statement may not provide clear guidance to every creditor under order. The staff of the Division of Compliance, Bureau of Consumer Protection, will respond to written requests for clarification of any order affected by this policy statement.

(Secs. 5, 18, 23; 38 Stat. 719–721, as amended by Pub. L. 96–252, 94 Stat. 374, 376, 390; 15 U.S.C. 45, 57a, 57b–4; Sec. 108(d), 82 Stat. 146, 150, as amended by Pub. L. 96–221, 94 Stat. 168, 15 U.S.C. 1601, 1607d)

Issued: January 7, 1982.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-1547 Filed 1-21-82; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, and 274

[Release Nos. 33-6376, IC-12157; File No. S7-919]

Revised Procedures for Processing Post-Effective Amendments Filed by Separate Accounts of Insurance Companies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking and amendments to rule and forms.

SUMMARY: The Commission is proposing for public comment a rule permitting most post-effective amendments to registration statements filed by insurance company separate accounts to become effective automatically, without affirmative action on the part of the Commission or its staff. The Commission is taking this action to eliminate staff review of certain routine filings by insurance company separate accounts, and to permit such registrants to assume greater responsibility for their compliance with the disclosure requirements of the Federal securities laws.

Concurrently, the Commission is publishing for comment a proposed amendment to the rule governing automatic effectiveness of post-effective amendments to registration statements filed by registered open-end management investment companies and unit investment trusts, other than

insurance company separate accounts. The Commission is also proposing amendments to the registration statement forms for securities of open-end management investment companies and unit investment trusts to require such registrants to specify the rule pursuant to which their amendments would become effective automatically, and to permit such registrants at their option to designate an effective date. Finally, the Commission is requesting comment on questions related to the inclusion of policyholder ratings assigned to insurance companies by nationally recognized rating organizations in the registration statements and post-effective amendments filed by insurance company separate accounts.

DATE: Comments must be received on or before March 15, 1982.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7–919. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street NW, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Mark J. Mackey, Special Counsel, (202) 272–2060, Melville B. Cox, Jr., Branch Chief, (202) 272–2060, or Susan P. Hart, Attorney, (202) 272–2098, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is today publishing for comment proposed rule 466 [17 CFR 230.466] under the Securities Act of 1933 ("1933 Act") [15 U.S.C. 77a et seq.]. The Commission is also proposing for public comment amendments to paragraph (a) of rule 465 [17 CFR 230.465] under the 1933 Act, and related amendments to Form S–6 [17 CFR 239.16], the registration statement form for unit investment trusts under the 1933 Act, and Form N–1 [17 CFR 239.15, 17 CFR 274.11], the registration statement form for open-end management investment companies under the 1933 Act and the Investment Company Act of 1940 ("1940 Act") [15 U.S.C. 80a–1 et seq.].

Proposed rule 466 would permit most post-effective amendments of registered separate accounts of insurance companies as defined in section 2(a)(37) of the 1940 Act [15 U.S.C. 80a-2(a)(37)] to become effective automatically. The substantive provisions of the proposed rule are in many respects identical to those of rule 465 under the 1933 Act, which provides for automatic effectiveness of post-effective amendments to 1933 Act registration statements filed by open-end management investment companies and unit investment trusts, other than registered separate accounts. Under paragraph (b) of the proposed rule, if certain conditions were satisfied, post-effective amendments filed by insurance company separate accounts on Form S–6 or Form N–1 would become effective either immediately upon filing with the Commission or on a date within 20 days from the date of filing as designated by the registrant. The staff would not review or comment on these post-effective amendments prior to their effectiveness. All other post-effective amendments filed by insurance company separate accounts would still be subject to staff review, but, pursuant to paragraph (a) of the proposed rule, would normally become effective automatically either 60 days after filing, or on a subsequent date no later than 80 days after filing as designated by the registrant. Generally, this latter provision of the proposed rule would apply to post-effective amendments that contained disclosure relating to material events occurring since the latest of three dates—the effective date of the separate account's registration statement, the effective date of its most recent post-effective amendment which included a prospectus, or the filing date of a post-effective amendment that had been filed but had not yet become effective.

Some of the events that the Commission believes would be material if disclosed in an amendment filed by an insurance company separate account are listed in the rule. Most of these events are substantially similar to those that trigger staff review of post-effective amendments filed by other types of open-end investment companies pursuant to rule 465, with some variations that take into account the special circumstances of separate accounts. Proposed rule 466 lists an additional event that the Commission would deem material for insurance company separate accounts. This event is any change, including, but not limited to, a change in the operations of the separate account or the rights of security holders, that would require the registrant to apply for exemptive relief under the 1940 Act, or an event for which approval by the Commission is required under section 11 [15 U.S.C. 80a-11] or section 26(b) [15 U.S.C. 80a-26(b)] of the 1940 Act (paragraph (b)(2)(vii) of the proposed rule).[1]

Accordingly, a post-effective amendment that contained disclosure of any of the events listed in the rule would have to be filed pursuant to paragraph (a) of the rule and would normally be subject to staff review and comment. However, the list set forth in the rule is not intended to be exhaustive, and a post-effective amendment would have to be filed under paragraph (a) of the rule if it disclosed any other event that in the judgment of the registrant was material.

The proposed rule provides that the operation of the automatic effectiveness provision may be suspended upon written notice to the registrant, if it appears to the Commission that the amendment may be incomplete or inaccurate in any material respect. Should the automatic effectiveness provision of the rule be suspended with respect to a particular post-effective amendment, the amendment would not become effective until it was so declared by the Commission in accordance with section 8(c) of the 1933 Act [15 U.S.C. 77h(c)]. A hearing would be held if the registrant so requested. The proposed rule also provides that the Commission can declare an amendment effective before the sixty-day period has elapsed. However, as under rule 465, it is contemplated that this power would be exercised only in the most unusual circumstances.

The Commission is also proposing to amend paragraph (a) of rule 465 [17 CFR 230.465] under the 1933 Act, the rule governing the automatic effectiveness of post-effective amendments filed by registered open-end management investment companies and unit investment trusts, other than insurance company separate accounts. Post-effective amendments filed pursuant to paragraph (a) of rule 465 now become effective automatically on the sixtieth day after filing. The proposed amendment to paragraph (a) would permit registrants to designate an effective date for such amendments later than the sixtieth day after filing, so long as such date was no later than eighty days after filing, to facilitate implementation of these changes, the Commission is proposing related amendments to Form S–6 under the 1933 Act and to Form N–1 under the 1933 Act and the 1940 Act to require registrants filing post-effective amendments on those forms to specify whether their amendments would become effective pursuant to rule 465 or 466, and, at their

[1] A similar event with respect to a company other than a separate account normally would also be material under the rule applicable to those companies, rule 465. Such events are specifically listed in proposed rule 466, and were not in rule 465, only because they are likely to occur more frequently with respect to separate accounts.

option, to designate an effective date as permitted by those rules. Concurrently, the Commission is requesting comment on issues related to its consideration of whether to permit the inclusion of policyholder ratings assigned to insurance companies by nationally recognized rating organizations in the registration statements and post-effective amendments file by insurance company separate accounts. Specific comment is invited on whether the disclosure of policyholder ratings in registration statements should be treated similarly to the disclosure of security ratings in registration statements.

Background

Variable annuities and variable life insurance contracts are funded by insurance company separate accounts that meet the definition of investment company set forth in sections 3(a)(1) [15 U.S.C. 80a–(a)(1)] and 3(a)(3) [15 U.S.C. 80a–3(a)(3)] of the 1940 Act.[2] As defined in section 2(a)(37) of the 1940 Act [15 U.S.C. 80a–2(a)(37)], a separate account is

> * * * an account established and maintained by an insurance company pursuant to the laws of any State or territory of the United States, or of Canada or any province thereof, under which income, gains and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.

Separate accounts may be organized either as open-end management companies or unit investment trusts, and generally offer redeemable securities for sale to the public. As with other types of investment companies, these securities are required to be registered under the 1933 Act, and a registration statement for such securities must have become efffective before they can be sold. Insurance company separate accounts file post-effective amendments to their 1933 Act registration statements for a variety of reasons. Separate accounts may file a post-effective amendment to increase the amount of their securities registered under the 1933 Act [3] or to register an indefinite number or amount of securities.[4] Those separate accounts that continuously offer and sell their securities to the public are required to maintain a current prospectus. Such companies file post-effective amendments to bring the information contained in their prospectuses up to date at approximately yearly intervals ("annual updating amendments").[5] Accordingly, separate acounts may file annual post-effective amendments with the Commission in order to update the financial and narrative disclosures contained in their prospectuses, to register additional securities, or both. Post-effective amendments might also be filed by such registrants to correct deficiencies in their registration statements discovered after the statements have become effective, or to incorporate into the prospectus disclosure of any important changes or developments in the business, operations or services of the account, or in the terms of the insurance or annuity contract being offered.

On August 25, 1980, the Commission adopted rule 465 under the 1933 Act to permit most post-effective amendments to registration statements filed by open-end management investment companies and unit investment trusts that were not insurance company separate accounts to become effective automatically, without affirmative action by the Commission or its staff.[6] At the time rule 465 was proposed, the Commission excluded insurance company separate accounts from the coverage of the rule because of its determination that post-effective amendments filed by such registrants were likely to contain disclosure about material changes in their products or other aspects of their operations that would require exemptive relief under the 1940 Act before such filings could become effective. The release stated the Commission's belief that such disclosure requried close scrutiny in the review process, which might not be susceptible of completion within the sixty-day period provided for in paragraph (a) of the rule.[7]

The exclusion of separate accounts from the coverage of proposed rule 465 was criticized by several commentators on that proposal who argued that separate accounts, like other open-end investment companies, make routine filings which should be eligible for immediate effectiveness pursuant to rule 465(b) and that the Commission's staff and registrants should be able to resolve disclosure problems on nonroutine filings within the sixty-day waiting period of rule 465(a). In addition, some commentators suggested retention of the two-part filing procedure for separate accounts if they were included within the purview of rule 465, given the difficulty of obtaining insurance company financial statements soon enough after the end of the fiscal year to permit the timely filing of a post-effective amendment pursuant to rule 465(a).[8]

At the time it proposed rule 465 and again when the rule was adopted, the Commission stated that it would consider extending automatic effectiveness to separate accounts at a later date. The Commission now believes that automatic effectiveness procedures similar to those contained in rule 465 should be extended to separate accounts, under the procedures described below. As proposed rule 466 is in many respects identical to rule 465, readers are referred to the releases proposing[9] and adopting[10] rule 465 and proposing[11] and adopting[12] amendments thereto for further discussions of automatic effectiveness of investment company post-effective amendments.

If the proposed rule is adopted, the Commission will adopt an amendment to its Rules of Organization and Program Management [17 CFR 200.1 et seq.] delegating to the staff the authority to suspend the operation of the automatic effectiveness provisions of the rule and declare amendments effective under the circumstances described below.

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[2] Securities Act Release No. 5360, January 31, 1973 [38 FR 4315, February 13, 1973].

[3] Pursuant to section 24(e)(1) of the 1940 Act [15 U.S.C. 80a–24(e)(1)].

[4] Pursuant to section 24(f) of the 1940 Act [15 U.S.C. 80a–24(f)] and rule 24f–2 thereunder [17 CFR 270.24f–2].

[5] The necessity of updating prospectuses at intervals of approximately one year results from the requirement of section 10(a)(3) of the 1933 Act [15 U.S.C. 77j(a)(3)], that "when a prospectus is used more than nine months after the effective date of the registration statement, the information contained therein shall be as of a date not more than sixteen months prior to such use." Pursuant to section 24(e)(3) of the 1940 Act [15 U.S.C. 80a–24(e)(3)], any prospectus relating to a redeemable security issued by an investment company that is updated to meet the requirements of section 10(a)(3) must be filed as a post-effective amendment to the issuer's registration statement.

[6] Securities Act Release No. 6229, August 25, 1980 [45 FR 57702, Aug. 29, 1980].

[7] Securities Act Release No. 6205, April 3, 1980 [45 FR 24500, April 10, 1980].

[8] These comments are available in File No. S7–829. Briefly, prospectuses of investment companies engaged in a continuous offering become stale approximately four months after the end of the registrant's fiscal year. Therefore, separate accounts must file their annual updating post-effective amendments early enough that they can become effective before the old prospectus becomes stale. Since post-effective amendments filed pursuant to paragraph (a) become effective sixty days, or approximately two months, after filing, separate accounts would, if subject to paragraph (a) of rule 465, have to file their annual updating amendments approximately two months after the end of their fiscal year. Insurance company financial statements are generally not available, however, until three months after the fiscal year end, too late to permit the timely filing of a post-effective amendment pursuant to paragraph (a) of rule 465.

[9] Securities Act Release No. 6205, April 3, 1980 [45 FR 24500, April 10, 1980].

[10] Securities Act Release No. 6229, August 25, 1980 [45 FR 57702, Aug. 29, 1980].

[11] Securities Act Release No. 6327, July 8, 1981 [46 FR 36195, July 14, 1981].

[12] Securities Act Release No. 6375 published under rules and regulations in this issue.

The proposed rule has been designated 466 for purposes of this release. However, it is contemplated that Regulation C under the 1933 Act [17 CFR 230.400 et seq.], of which the proposed rule would be a part, may be revised during the interim between the new rule's proposal and adoption. Should this revision be effected, the designation of the proposed rule may be changed if and when it is adopted.

Proposed Rule and Related Amendments

The proposed rule provides that three types of post-effective amendments, specified in paragraph (b) of the rule, will become effective immediately upon filing with the Commission or on any date within twenty days thereafter that the registrant designates. The post-effective amendments that would become effective in this manner are those which are filed for no purpose other than one or more of the following: (1) registering additional securities pursuant to section 24(e)(1) of the 1940 Act; (2) registering an indefinite number or amount of securities pursuant to section 24(f) of the 1940 Act and rule 24f–2 thereunder; and (3) if certain conditions are met, updating the financial and other disclosure contained in the registrant's prospectus in accordance with section 10(a)(3) of the 1933 Act and, in conjunction therewith, making such non-material changes as the registrant deemed appropriate. Under paragraph (b)(3) of the rule, when a registrant proposed that its annual updating amendment was to become effective pursuant to paragaph (b), the amendment would have to be accompanied by the registrant's representation that none of the events specified in paragraph (b)(2) of the rule and discussed below, and no other material events requiring disclosure in the prospectus, had occurred since the latest of three dates: the effective date of the registrant's most recently effective registration statement; the effective date of its most recently post-effective amendment containing a prospectus; or the filing date of a post-effective amendment filed pursuant to paragraph (a) of the rule that had not yet become effective. Pursuant to paragraph (e) of the rule, if the post-effective amendment had been prepared or reviewed by counsel, these representations would have to be supported by a written representation of registrant's counsel that the amendment did not contain disclosures that would render it ineligible to become effective pursuant to paragraph (b).

Paragraph (b)(2) of the rule lists seven events, the disclosure of any of which would cause an amendment to become subject to staff review during the sixty days after filing pursuant to paragraph (a) of the proposed rule, rather than becoming effective pursuant to paragraph (b). As part of its normal procedures, the staff would review post-effective amendments in this category, as it does now with respect to all types of post-effective amendments filed by separate accounts. As indicated above, the list set forth in paragraph (b)(2) is not intended to be exhaustive. A post-effective amendment containing disclosure about any other event that the registrant represented was material would be subject to staff review pursuant to paragraph (a) of the rule. The events listed in paragraph (b)(2) are those that the Commission views as clearly material to the investing public, or likely to present complex legal or factual problems requiring close scrutiny, and possibly comments, as a matter of course. The Commission believes that in such cases the review process is necessary even though disclosure regarding some of these events may have been reviewed in the context of proxy solicitation material. The events are as follows: (1) a termination of the registrant's investment advisory contract; (2) a change in the registrant's investment objective, in any of the policies listed in section 8(b)(1) of the 1940 Act [15 U.S.C. 80a–8(b)(1)], or in any other investment policy which the registrant deems fundamental or which, pursuant to section 13 of the 1940 Act [15 U.S.C. 80a–13], is changeable only by shareholder vote; (3) a suspension of sales or redemptions of securities issued by the separate account; (4) the registration of any of the separate account's or insurance company's directors, unless the registrant represents that the resignation was not due to disagreement with the registrant on any matter relating to the separate account's operation, policies or practices; (5) a change in the separate account's or insurance company's independent public accountant, unless the registrant represents that there were no disagreements with the former accountant on any matter of accounting principles, practices or financial statement disclosures pertaining to the separate account; (6) if the registered separate account is organized as a unit investment trust, any substitution of securities held by the trust; and (7) any change, including, but not limited to, a change in the operations of the separate account or in the rights of security holders, that would require the registrant to apply for exemptive relief under the 1940 Act, or any event for which approval by the Commission would be required under sections 11 or 26(b) of the 1940 Act.

The first six events listed in the proposed rule are substantially similar to those contained in rule 465, with several minor variations relating to the special circumstances of separate accounts. The last event listed in proposed rule 466, however, relating to changes that would require the registrant to seek exemptive relief or approval under the 1940 Act, is not listed in rule 465. This item is included in the proposed rule because, in the Commission's experience, registered separate accounts frequently disclose in their post-effective amendments material changes in their products or their operations that require exemptive relief under the 1940 Act, and the Commission believes that it is important to review such filings before they become effective, both to ensure adequate disclosure and to ensure that separate accounts apply for needed exemptive relief or approval. Under proposed rule 466(b)(2)(vii), a post-effective amendment containing a prospectus that discloses such a change, whether or not the separate account has obtained an exemptive order from the Commission relating to such change, would have to be filed pursuant to paragraph (a) of the rule and be subject to review. If the required exemptive order had not been issued by the desired effective date of the post-effective amendment, however, and the prospectus filed as part of the amendment continued to disclose the material change, the Commission would employ its authority under proposed rule 466(c) to suspend the effective date of the amendment. The Commission would take this action because the disclosure in a post-effective amendment of a change that would require the separate account to obtain exemptive relief, when such exemptive relief had not been granted at the time of effectiveness, would render the amendment materially incomplete or inaccurate within the meaning of paragraph (c). If the application had been filed but the order could not be obtained in time, and the post-effective amendment disclosing the change was pending, the registrant would have to file another amendment pursuant to paragraph (a) before the first one was due to become effective. The second amendment would supersede the first amendment pursuant to the operation of paragraph (d)(1) of proposed rule 466, and the staff would advance the effective date of the subsequent

amendment to the date of the exemptive order. Accordingly, it would be advisable for separate accounts that are aware they will be making changes requiring exemptive relief to apply for the required exemptive relief far enough in advance of the desired effective date to obtain such relief before that date.

Paragraph (b)(2)(vi) of the proposed rule specifies that *any* substitution of securities held by a separate account organized as a unit investment trust is a material event, while paragraph (b)(2)(vi) of rule 465 states that only a substitution of 5% or more is a material event for unit investment trusts the assets of which do not consist solely of securities issued by a management investment company. The reason for this difference is that insurance company separate accounts organized as unit investment trusts hold the securities of a single issuer (or single issuers in sub-accounts) and, therefore, do not substitute less than their entire portfolios comprised of securities of each issuer. Thus, if any substitution were to occur, it would be considered a material event requiring disclosure in a prospectus.

Paragraph (b)(2)(iv) of the proposed rule states that the resignation of any of the separate account's or insuance company's directors would be a material event, unless the registrant represented that such director did not resign due to disagreement with the registrant on any matter relating to the separate account's operations, policies or practices. Similarly, paragraph (b)(2)(v) of the proposed rule states that a change in the separate account's or insurance company's independent public accountant would be a material change, unless the registrant represented that there were no disagreements with the former accountant on any matter of accounting principles or practices or financial statement disclosures relating to the separate account. The Commission has included the directors and independent public accountant of the insurance company offering the separate account contract in proposed rule 466 in recognition of the significant role those persons have in the operation of the separate account.

As stated above, the staff would review those amendments that are within the purview of paragraph (a). Consequently, a registrant might file additional amendments to reflect changes in disclosure suggested by the staff before the original amendment became effective. It is anticipated that such refiling normally would occur before the sixty-day period specified in paragraph (a) had elapsed. Paragraph (d)(1) of the proposed rule provides that, if a post-effective amendment was filed before a previously filed amendment had become effective, only the most recently filed post-effective amendment would become effective. Pursuant to paragraph (a), if the effective date were not advanced, the effective date of the latest amendment would be the sixtieth day after its filing. Therefore, when a registrant filed an additional amendment solely to make changes in disclosure suggested by the staff, the staff would normally employ the provisions of paragraph (a) of the rule to advance the effective date of the modified amendment so as to enable it to become effective on the sixtieth day after the original amendment was filed. In addition, the power to set an earlier effective date would be employed for filings (other than annual updating amendments) that were necessitated by changes in the registrant's business, operations or services, where the changes were such that it would be inappropriate for the registrant to continue to sell shares pending effectiveness of the amendment containing the revised prospectus. In order to ensure fair and orderly processing, the power to set an earlier effective date would not be used for any other purpose, except in the most unusual circumstances. Thus, the fact that a registrant's prospectus was, or was about to become, stale would not be considered sufficient reason for the commission or staff to exercise its power to set an effective date earlier than 60 days after filing. Therefore, it would be imperative that registrants file post-effective amendments pursuant to paragraph (a) of the proposed rule at least sixty days before their prospectuses were due to become stale.

Proposed rule 466 incorporates amendments to paragraphs (b) and (d) of rule 465 that were proposed for comment in July 1981 [13] and adopted by the Commission on this date.[14] Accordingly, paragraph (d)(2) of the proposed rule specifies that, under certain conditions, the filing under paragraph (b) of a post-effective amendment containing a prospectus during the pendency of a prior post-effective amendment filed under paragraph (a) relating to the same prospectus would not prevent the prior amendment from becoming effective automatically as designated by the registrant. The subsequent amendment would have to designate as its effective date the same day as the effective date of the prior amendment. Proposed rule 466(b) permits such a subsequent amendment to be filed under that paragraph, despite the pendency of a filing under paragraph (a).

As applied to a registrant that did not have updated financial statements available sixty days in advance of the desired effective date, this paragraph of the proposal would permit the registrant to file updated financial statements in an amendment pursuant to rule 466(b) when they became available, even if a prior amendment filed under rule 466(a) relating to the same prospectus was pending. If the registrant had experienced a material event requiring a filing under paragraph (a), the registrant would file the updated narrative portion of its prospectus under paragraph (a) sixty days (or more) in advance of the desired effective date. During the sixty-day waiting period, the registrant would then file a post-effective amendment under paragraph (b) containing the updated financial statements, such amendment designating as its effective date the same day as the anticipated effective date of the prior amendment pending under paragraph (a). It should be noted that the updated financial statements that could be filed as part of the subsequent amendment under rule 466(b) would include both those of the insurance company that offered the separate account and those of the separate account itself. The subsequent filing made pursuant to paragraph (b) could contain any non-material changes in disclosure that the registrant deemed appropriate, in addition to the financial statements being brought up to date for purposes of section 10(a)(3) of the 1933 Act.

Paragraph (c) of the proposed rule provides that where a post-effective amendment was filed in accordance with the terms of paragraph (a) of the rule, and it appeared to the Commission that the amendment might be incomplete or inaccurate in any material respect, the operation of paragraph (a) of the rule might be suspended. Automatic effectiveness of an amendment would not be suspended except on written notice furnished to the registrant before the amendment had become effective under that section.

Paragraph (c) of the proposed rule also provides that, should the operation of paragraph (a) be suspended with respect to a post-effective filing, the registrant would be entitled to file at any time a petition for review of the suspension of automatic effectiveness. Such petition could be in the form of a letter or other statement, but would

[13] Securities Act Release No. 6327, July 8, 1981 [46 FR 36195, July 14, 1981].

[14] Securities Act Release No. 6375, published under Rules and Regulations in this issue.

have to set forth with particularity the facts upon which the petitioner relied. If the registrant so requested in the petition, the opportunity would be provided for presentation of all material facts at a hearing on the matter. The purpose of the hearing would be to determine whether suspension of the operation of paragraph (a) was in the public interest and required for the protection of investors, and whether the amendment should be declared effective pursuant to section 8(c) of the 1933 Act. Once automatic effectiveness had been suspended with respect to a post-effective amendment, the amendment would thereafter become effective only when declared effective on a date determined by the Commission or the staff in accordance with section 8(c) of the 1933 Act. This power to delay effectiveness beyond sixty days would usually be exercised only in two circumstances: (1) where the Commission had authorized injunctive action or administrative proceedings against the registrant or persons associated with it, or (2) if the prospectus disclosed a change for which the registrant required exemptive relief under the 1940 Act, and such relief was not to be granted by the desired effective date. If a post-effective amendment appeared to raise the possibility of being materially incomplete or inaccurate, but the Commission was not yet prepared to take action against the registrant of the type described above, the amendment would normally be allowed to become effective, and the registrant would assume the risk that the Commission might later determine to take action on the ground that the filing was misleading or otherwise deficient. All registrants filing under paragraph (b) would assume this risk, because those filings generally would not be reviewed before becoming effective. For this reason, if proposed rule 466 is adopted, registrants that certify that their amendments can become effective pursuant to paragraph (b) should take special care in determining that no material event has occurred that would make the amendments ineligible for effectiveness under paragraph (b). For example, registrants that are aware that they are subject to a formal order of investigation by the Commission should consider the materiality of the matters being investigated in determining whether to file under paragraph (b). Similarly, as discussed above, registrants that are aware they will be making changes requiring exemptive relief should apply for such relief far enough in advance of the desired effective date to obtain such relief before that date.

Paragraph (e) of the proposed rule requires the registrant to make the representations required in conjunction with the filing of an amendment pursuant to paragraph (b) by certification on the signature page of the post-effective amendment. The required certification would be to the effect that the registrant met all of the requirements for effectiveness of the amendment pursuant to paragraph (b) of the rule.

Under the proposed rule, the staff would prepare notifications of effectiveness only for those amendments as to which the effective date had been advanced and for those amendments which were made effective following suspension of effectiveness. Thus, no notifications of effectiveness would be prepared for amendments becoming effective automatically on the sixtieth day after filing or on a date chosen by the registrant pursuant to paragraph (a), or immediately upon filing or on a date chosen by the registrant pursuant to paragraph (b), of the proposed rule. Rule 474 under the 1933 Act [17 CFR 230.474] states that the date on which amendments are actually received by the Commission shall be the filing date.

Effective Date of Amendments

To avoid any confusion regarding the date of effectiveness, registrants filing under proposed rule 466 would be permitted to designate an effective date. Registrants filing pursuant to paragraph (a) of the proposed rule could choose the sixtieth day after filing as the effective date, or a date later than the sixtieth day after filing up to and including the eightieth day after filing. If no date was specified, the amendment would become effective on the sixtieth day after filing. Similarly, registrants filing pursuant to paragraph (b) would be permitted to choose an effective date, provided the effective date chosen was no later than twenty days after the amendment was filed. Registrants filing pursuant to paragraph (b) could also choose effectiveness immediately upon filing, and, if no date was specified, the amendment would become effective immediately. The Commission also proposes to amend rule 465 so that open-end management companies and unit investment trusts other than insurance company separate accounts may also designate an effective date under paragraph (a) of that rule.

When rule 465 was adopted, the Commission determined that the sixty-day waiting period under paragraph (a) was sufficient time for registrants to receive confirmation of the filing date so they could know well in advance the date of automatic effectiveness of the amendment. However, a number of registrants have stated that it would facilitate their planning if they had some flexibility to designate the date of effectiveness of a filing pursuant to rule 465(a). Accordingly, contemporaneously with the proposal of rule 466 containing similar provisions, the Commission proposes to amend rule 465(a) to permit registrants filing under the provision to designate an effective date later than the sixtieth day after filing up to and including the eightieth day after filing. If no date was specified, the amendments would become effective on the sixtieth day after filing, and, of course, registrants would be able to designate the sixtieth day as the effective date. The amendment, if adopted, should provide registrants with greater flexibiity to set an effective date in accordance with their needs.

To facilitate implementation of the proposed rule and changes to rule 465, it is proposed to amend the facing pages of Forms S–6 and N–1 to include a statement by the registrant as to the rule (465 or 466) under which the amendment was being filed. In addition, the registrant would be required to state, by checking the appropriate box, whether the amendment was intended to become effective immediately or on a specified date pursuant to paragraph (b), or sixty days after filing or on a specified date pursuant to paragraph (a). Finally, it is proposed to amend the signature pages of Forms N–1 and S–6 to include the representations made by registered separate accounts under rule 466(b).

Because the proposed rule, if adopted, would provide the exclusive procedure for the processing of all post-effective amendments filed by insurance company separate accounts, amendments within the purview of the rule that did not recite on the facing sheet that they were filed pursuant to paragraph (a) or paragraph (b) would be presumed to have been filed pursuant to paragraph (a), and would become effective in accordance with that paragraph, *i.e.*, on the sixtieth day after filing.

Registrants are reminded that, regardless of whether the proposed rule is adopted, the statutory burden of full disclosure is on the issuer, its affiliates, the underwriter, the accountants and others responsible for the filing. As a matter of law, this burden cannot be shifted to the Commission or its staff.

Disclosure of Policyholder Ratings

The Commission recently issued a statement of its policy and two rule

proposals to permit the voluntary disclosure of security ratings assigned by nationally recognized statistical rating organizations to classes or debt securities, convertible debt securities and preferred stock in registration statements filed under the 1933 Act.[15] The first rule proposal would amend Rule 134 under the 1933 Act [17 CFR 250.134] to permit the disclosure of security ratings of debt securities, convertible debt securities or preferred stock assigned by a rating organization in certain communications deemed not to be a prospectus (commonly known as "tombstone ads"). The second proposal would add a new subparagraph (g) to rule 436 under the 1933 Act [17 CFR 230.436(g)] to provide that a security rating is not part of a registration statement prepared or certified by a person or a report or valuation prepared or certified by a person within the meaning of sections 7 and 11 of the 1933 Act [15 U.S.C. 77 (g) and (k)]. In light of the general usefulness to investors of this type of information, the Commission is considering questions concerning the inclusion of policyholder ratings [16] assigned to insurance companies by nationally recognized statistical rating organizations [17] in the registration statements and post-effective amendments filed by insurance company separate accounts, and accordingly, the Commission requests comments on this issue. Comment is specifically invited on whether the disclosure of policyholder ratings in registration statements should be treated similarly to the disclosure of security ratings in registration statements, so that, for example, rating organizations that assign policyholder ratings to insurance companies would not be required to consent under section 7 of the 1933 act and would be exempted from liability as an expert under section 11 of the 1933 Act, as under proposed rule 436(g) under the 1933 Act.[18] In addition, commentators are requested to address the standards for determining what is a nationally recognized statistical rating organization in the context of policyholder ratings.[19]

[15] Securities Act Release No. 6336 (August 6, 1981) [46 FR 42024, August 18, 1981].

[16] A policyholder rating typically is an alphabetical designation that attempts to quantify the stability of a company and its long-term ability to discharge its obligations to policyholders.

[17] *See Best's Insurance Reports Life/Health* (1981).

[18] *See* Securities Act Release No. 6336.

[19] There is a distinction between policyholder ratings and security rating: a security rating is assigned to a particular class of securities, not to an issuer, while a policyholder rating is assigned to an insurance company. However, these ratings are similar in that security ratings typically quantify the likelihood that an issuer will be able to comply with the terms of a particular obligation, and policyholder ratings typically quantify the long-term ability of a company to discharge its obligations to policyholders. In the context of disclosure in a registration statement of an insurance company separate account, the policyholder rating of the insurance company sponsoring the separate account would only have bearing on the ability of the insurance company to meet its obligations to the contract holders, and not on the investment performance of the separate account.

Text of Proposed Rule 466 and Proposed Amendments to Rule 465 and to Form N–1 and Form S–6

I. It is proposed to amend Part 230 of Chapter II of Title 17 of the Code of Federal Regulations as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By adding new § 230.466 as follows:

§ 230.466 Effective date of post-effective amendments filed by registered separate accounts of insurance companies.

(a) Except as otherwise provided in this section, a post-effective amendment to a registration statement for an offering of securities by a registered separate account as defined in section 2(a)(37) of the Investment Company Act of 1940 [15 U.S.C. 80a–2(a)(37)] shall become effective on the sixtieth day after the filing thereof, or such later date designated by the registrant on the facing sheet of the amendment which date shall not be later than eighty days after the date on which the amendment is filed, *Provided,* That the Commission, having due regard to the public enterest and the protection of investors, may declare an amendment filed pursuant to this paragraph effective on an earlier date.

(b) Except as otherwise provided in this section, a post-effective amendment to a registration statement for an offering of securities by a registered separate account as defined in section 2(a)(37) of the Investment Company Act of 1940 [15 U.S.C. 80a–2(a)(37)] shall become effective on the date upon which it is filed with the Commission, or such later date designated by the registrant on the facing sheet of the amendment, which date shall not be later than twenty days after the date on which the amendment is filed, *Provided,* That the following conditions are met:

(1) It is filed for no purpose other than one or more of the following:

(i) Increasing the number or amount of securities proposed to be offered pursuant to section 24(e)(1) of the Investment Company Act of 1940 [15 U.S.C. 80–24(e)(1)];

(ii) Registering an indefinite number or amount of securities pursuant to section 24(f) of the Investment Company Act of 1940 [15 U.S.C. 80a–24(f)] and Rule 24f–2 thereunder [17 CFR 270.24f–2]; and

(iii) Bringing the financial statements and other information up to date pursuant to section 10(a)(3) of the Act [15 U.S.C. 77j(a)(3)] and, in conjunction therewith, making such other non-material changes as the registrant deems appropriate;

(2) Any prospectus filed as a part of such amendment does not include disclosure relating to any of the following events to the extent that such events have occurred since the effective date of the registrant's registration statement or the effective date of its most recent post-effective amendment thereto which included a prospectus, whichever is later, unless such events are disclosed in a post-effective amendment filed pursuant to paragraph (a) of this section which has not yet become effective:

(i) Termination of an investment advisory contract;

(ii) A change the registrant's investment objectives, in any of its policies listed in section 8(b)(1) of the Investment Company Act of 1940 [15 U.S.C. 80a–8(b)(1)], or in any other investment policy which the registrant deems fundamental or which, pursuant to section 13 of the Investment Company Act of 1940 [15 U.S.C. 80a–13], is changeable only by shareholder vote;

(iii) Suspension of sales or redemptions of securities issued by the registered separate account;

(iv) Resignation of any of the registered separate account's or insurance company's directors, unless the registrant represents that such director did not resign due to disagreement with the registrant on any matter relating to the separate account's operations, policies or practices;

(v) A change in the registered separate account's or insurance company's independent public accountant, unless the registrant represents that there were no disagreements with the former accountant on any matter of accounting principles or practices or financial statement disclosures pertaining to the separate account;

(vi) If the separate account is organized as a unit investment trust, any substitution of securities held by the trust; or

(vii) Any change, including, but not limited to, a change in the operations of the separate account or in the rights of security holders, that requires the

registrant to apply for exemptive relief under the Investment Company Act of 1940, or an event for which approval by the Commission is required under sections 11 or 26(b) of the Investment Company Act of 1940 [15 U.S.C. 80a–11, 26(b)];

(3) The registrant represents that no material event requiring disclosure in the prospectus, other than one listed in paragraph (b)(1) of this section, has occurred since the latest of three dates: (i) the effective date of the separate account's registration statement, (ii) the effective date of its most recent post-effective amendment to its registration statement which included a prospectus; or (iii) the filing date of a post-effective amendment filed pursuant to paragraph (a) of this section which has not yet become effective; and

(4) Such amendment recites on the facing sheet thereof that the registrant proposes that the amendment will become effective pursuant to paragraph (b) of this section.

(c) No amendment shall become effective pursuant to paragraph (a) of this section if, prior to the effective date of such amendment, it should appear to the Commission that the amendment may be incomplete or inaccurate in any material respect, and the Commission furnishes to the registrant written notice that the effective date of the amendment is to be suspended. Following such action by the Commission, the registrant may file with the Commission at any time a petition for review of the suspension. The Commission will order a hearing on the matter if a request for such a hearing is included in the petition. If the Commission has suspended the effective date of an amendment, the amendment shall become effective on such date as the Commission may determine, having due regard to the public interest and the protection of investors.

(d)(1) Except as provided in paragraph (d)(2) of this section, a post-effective amendment which includes a prospectus shall not become effective pursuant to paragraph (a) of this section if a subsequent post-effective amendment relating to such prospectus is filed before such amendment becomes effective.

(2) A post-effective amendment which includes a prospectus shall become effective pursuant to paragraph (a) of this section notwithstanding the filing of a subsequent post-effective amendment relating to such prospectus, *Provided,* That such subsequent amendment is filed pursuant to paragraph (b) of this section, *And further provided,* That such subsequent amendment designates as its effective date the date on which the prior post-effective amendment shall become effective pursuant to paragraph (a) of this section. If another post-effective amendment relating to the same prospectus is filed pursuant to paragraph (a) of this section before the prior amendments filed pursuant to paragraphs (a) and (b) of this section have become effective, neither the prior amendment filed pursuant to paragraph (a) of this section nor the amendment filed pursuant to paragraph (b) of this section shall become effective pursuant to this section.

(e) The representations of the registrant referred to in paragraphs (b)(2)(iv), (b)(2)(v) and (b)(3) of this section shall be made by certification on the signature page of the post-effective amendment that such amendment meets all of the requirements for effectiveness pursuant to paragraph (b) of this section. If counsel prepared or reviewed the post-effective amendment filed pursuant to paragraph (b) of this section, such counsel shall furnish to the Commission at the time the amendment is filed a written representation that the amendment does not contain disclosures which would render it ineligible to become effective pursuant to paragraph (b).

2. By revising paragraph (a) of § 230.465 to read as follows:

§ 230.465 Effective date of post-effective amendments filed by certain registered investment companies.

(a) Except as otherwise provided in this section, a post-effective amendment to a registration statement filed by a registered open-end management investment company or unit investment trust, other than a registered separate account as defined in section 2(a)(37) of the Investment Company Act of 1940 [15 U.S.C. 80a–2(a)(37)], shall become effective on the sixtieth day after the filing thereof, or such later date designated by the registrant on the facing sheet of the amendment, which date shall not be later than eighty days after the date on which the amendment is filed, *Provided,* That the Commission, having due regard to the public interest and the protection of investors, may declare an amendment filed pursuant to this paragraph effective on an earlier date.

* * * * *

II. It is proposed to amend Parts 239 and 274 of Chapter II of Title 17 of the Code of Federal Regulations by:

1. Amending the facing sheet of Form N–1, and 2. amending the signature page of Form N–1 as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

§ 239.15 Form N–1 for open-end management investment companies registered on Form N–8A.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

§ 274.11 Form N–1, registration statement of open-end management investment companies.

1. Amendment to facing sheet. After "Approximate Date of Proposed Public Offering" remove the following language:

☐ Check box if it is proposed that this filing will become effective (immediately upon filing or on (date)) pursuant to paragraph (b) of Rule 465.

and add:

It is proposed that this filing will become effective (check appropriate box)

☐ immediately upon filing pursuant to paragraph (b)
☐ on (date) pursuant to paragraph (b)
☐ 60 days after filing pursuant to paragraph (a)
☐ on (date) pursuant to paragraph (a) of rule (465 or 466).

2. Amendment to signature page. The first textual paragraph under "SIGNATURES" is amended as follows:

Pursuant to the requirements of the Securities Act of 1933 (and) (or) the Investment Company Act of 1940 the Registrant (certifies that it meets all of the requirements for effectiveness of this Registration Statement pursuant to rule (465(b) or 466(b)) under the Securities Act of 1933 and) has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ————, and State of ————, on the —— day of ——, 19—.

3. Amending the facing sheet of Form S–6 and 4. amending the signature page of Form S–6 as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

§ 239.16 Form S–6, for unit investment trusts registered on Form N–8B–2.

3. Amendment to facing sheet. After "Name and address of agent for service" remove:

☐ Check box if it is proposed that this filing will become effective (immediately upon filing or on (date)) pursuant to paragraph (b) of Rule 465.

and add:

It is proposed that this filing will become effective (check appropriate box)

☐ immediately upon filing pursuant to paragraph (b)
☐ on (date) pursuant to paragraph (b)
☐ 60 days after filing pursuant to paragraph (a)
☐ on (date) pursuant to paragraph (a) of rule (465 or 466).

2. Amendment to signature page. The first textual paragraph under "SIGNATURES" is amended as follows:

Pursuant to the requirements of the Securities Act of 1933, the registrant, * * *, (certifies that it meets all of the requirements for effectiveness of this Registration Statement pursuant to rule (465(b) or 466(b)) under the Securities Act of 1933 and) has duly caused this registration statement to be signed on its behalf by the undersigned thereunto duly authorized, and its seal to be hereunto affixed and attested, all in the City of ————, and State of ————, on the —— day of ——, 19—.

Statutory Authority

The Commission hereby publishes for comment proposed rule 466, amendments to rule 465, and amendments to Form S–6 and Form N–1 pursuant to the provisions of Sections 7, 8 and 19(a) of the Securities Act of 1933 [15 U.S.C. 77g, 77h and 77s(a)], and sections 8 and 38(a) of the Investment Company Act of 1940 [15 U.S.C. 80a–8 and 80a–37(a)].

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 rule 466 and the amendments to rule 465, Form N–1 and Form S–6 proposed 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 the release.

By the Commission.

January 11, 1981.

George A. Fitzsimmons,

Secretary.

Regulatory Flexibility Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that proposed rule 466 [17 CFR 230.466] and the proposed amendments to rule 465(a) [17 CFR 230.465] under the Securities Act of 1933 ("1933 Act") [15 U.S.C. 77a et seq.], and related amendments to Form N–1 under the 1933 Act and the 1940 Act [17 CFR 239.15, 17 CFR 274.11] and From S–6 under the 1933 Act [17 CFR 239.16], set forth in Securities Act Release No. 6376, if promulgated, will not have a significant economic impact on a substantial number of small entities. The reason for this certification is that the new rule and the amendments propose changes in filing procedures for post-effective amendments which will reduce or have no effect on the costs involved in preparing and filing documents with the Commission.

Dated: January 11, 1982.

John S.R. Shad,

Chairman.

[FR Doc. 82–1586 Filed 1–21–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 60

National Register of Historic Places; Extension of Comment

AGENCY: National Park Service, Interior.

ACTION: Extending comment period for proposed rules.

SUMMARY: In order to provide greater opportunity for public comment, the National Park Service is extending the period for comments on the proposed rules published in the **Federal Register**, Vol. 46, No. 220, November 16, 1981, pp. 56209–56213 (FR Doc. 81–32874). These proposed rules incorporate certain revisions required by the National Historic Preservation Act Amendments of 1980, Pub. L. 96–515, ("Amendments"), and update and revise in other respects certain procedures for nominations to the National Register of Historic Places as set forth in 36 CFR Part 60.

DATE: The comment period has been extended from January 16, 1982 to February 1, 1982.

ADDRESS: Send comments to: Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240, (202/272–3504).

FOR FURTHER INFORMATION CONTACT:

Carol D. Shull, Acting Keeper of the National Register.

Jerry L. Rogers,

Acting, Associate Director, Archeology and Historic Preservation.

[FR Doc. 82–1649 Filed 1–21–82; 8:45 am]

BILLING CODE 4310–70–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–8–FRL 2022–6]

Approval and Promulgation of State Implementation Plans; PSD Redesignation—Flathead Reservation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The purpose of the action is to propose approval and seek public comment on the October 27, 1981 request of the Confederated Salish and Kootenai Tribal Council to redesignate the Flathead Reservation in the State of Montana to Class I under EPA's regulations for prevention of significant air quality deterioration (PSD). Class I applies to areas where only small increases in ambient levels of particulates and sulfur dioxide are allowed.

DATES: Comments due February 22, 1982.

ADDRESSES: Written comments should be addressed to: Max H. Dodson, Director, Montana Office, Environmental Protection Agency, Federal Building, Drawer 10096, 301 S. Park, Helena, Montana 59626.

Copies of the Tribes' analysis are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Montana Office, Federal Building, Drawer 10096, 301 S. Park, Helena, Montana 59626

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street S.W., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT:

Kenneth L. Alkema, Chief, Air, Pesticidies and Hazardous Wastes, Environmental Protection Agency, Federal Building, Drawer 10096, 301 S. Park, Helena, Montana 59626, Telephone: 406–449–5414.

SUPPLEMENTAL INFORMATION: Part C of the Clean Air Act provides for the prevention of significant air quality deterioration (PSD). The intent of this part is to prevent deterioration of existing air quality, particularly in areas currently considered to be pristine. The Act provides for three basic classifications applicable to all lands of

the United States. Associated with each classification are increments which represent the increase in air pollutant concentrations that would be considered significant. Class I applies to areas in which practically any change in air quality would be considered significant; Class II applies to areas in which deterioration normally accompanying moderate well-controlled growth would be considered insignificant; and Class III applies to those areas in which considerably more deterioration would be considered insignificant. Under the 1977 Amendments to the Clean Air Act all areas of the country that met the national ambient air quality standards were initially designated Class II, except for certain international parks, national wilderness areas, national memorial parks, national parks, and any other area previously designated Class I. The Act allows States and Indian Governing Bodies to reclassify areas under their jurisdiction to accommodate the social, economic, and environmental needs and the desires of the local population.

On October 27, 1981, the Confederated Salish and Kootenai Tribal Council submitted to EPA an official proposal to redesignate the Flathead Reservation from Class II to Class I. The Flathead Reservation is located entirely within the state of Montana and includes the National Bison Range and the Nine pipe and Pablo National Wildlife Refuges. With their request the Tribal Council submitted an analysis of the impacts of redesignation both in and outside the proposed Class I area, documentation of the delivery and publication of appropriate notices, a record of the public hearing held January 15, 1981, and a discussion of the comments received by the Tribal Council on the proposed designation. Following, is a discussion of the requirements for redesignation and how the Tribal Council complied with those requirements.

Statutory and Regulatory Requirements for Redesignation

Section 164 of the Clean Air Act and 40 CFR 52.21(g) outlines the requirements for redesignation of areas under the PSD program. Section 164(c) provides that lands within the exterior boundaries of reservations of Federally recognized Indian tribes may be redesignated only by the appropriate Indian governing body. Under section 164(b)(2), EPA may disapprove a redesignation only if it finds, after notice and opportunity for hearing, that the redesignation does not meet the procedural requirements of section 164 or is inconsistent with section 162(a) or 164(a). Section 162(a) establishes mandatory Class I areas and section 164(a) identifies areas that may not be redesignated to Class III. Because of the nature of the area proposed for redesignation to Class I, neither of these sections prohibit the proposed redesignation.

The statutory and regulatory procedural requirements for a Class I redesignation by an Indian governing body (1) Notice must be afforded and public hearing conducted in areas proposed to be redesignated and in areas which may be affected; (2) at least 30 days prior to the public hearing, a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation must be prepared and made available for public inspection and announced in the public hearing notice; (3) prior to any redesignation, the document identified above must be reviewed and examined by the redesignating authorities; (4) if any Federal lands are included in the redesignation, the redesignating authorities must provide written notice to the appropriate Federal land managers and an opportunity to confer and submit written comments and recommendations with respect to the intended notice of redesignation prior to issuance of such notice. A list shall be published of any inconsistency between the redesignation and such written comments and recommendations from any Federal land managers (together with the reasons for making the redesignation against the recommendation of the Federal land manager).

Tribal Council Submittal

The October 27, 1981, request for redesignation includes evidence that all of the statutory and regulatory requirements for redesignation of an Indian Reservation from Class II to Class I have been met by the Tribal Council of the Confederated Salish and Kootenai Tribes of the Flathead Reservation. The Tribal Council is the Indian governing body for the Flathead Reservation and only lands within the exterior boundaries of the reservation are proposed for redesignation.

The Tribal Council conducted a public hearing in St. Ignatius, Montana on January 15, 1981. Notice of the hearing appeared in area newspapers at least 30 days prior to the hearing. A description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation entitled, "Flathead Reservation: Class I Air Quality Redesignation," was completed in October 1980 and its availability was announced in the public hearing notices. In addition, the submittal included evidence that copies of the analysis document were sent to appropriate State, local and Federal officials at least 30 days prior to the hearing. Evidence that the Tribal Council consulted with the State prior to proposing the redesignation is also included in the submittal. Furthermore, the submittal shows that notice of the Tribal Council's intention to redesignate was sent to appropriate Federal, State and local officials as well as relevant organizations, businesses, etc., in August 1979. The appropriate Federal land managers have not submitted written comments or recommendations that conflict with the redesignation to the Tribal Council or EPA. Therefore the documentation submitted by the Tribal Council shows that all the statutory and regulatory procedural requirements for redesignation have been met.

EPA Proposed Action

Since EPA's review has not revealed any procedural deficiencies, the redesignation is proposed for approval. The public is invited to comment whether the tribes have met all of the procedural requirements of Section 164. If there is enough expressed interest, EPA will conduct a public hearing on the matter.

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), I hereby certify that the proposed action will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only redesignates an area for PSD purposes. It imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it imposes no new requirements. It only proposes to redesignate an area for PSD purposes.

This notice of proposed rulemaking is issued under the authority of section 164 of the Clean Air Act (42 U.S.C. 7464).

Dated: December 21, 1981.

Steven J. Durham,

Regional Administrator.

[FR Doc. 82-1619 Filed 1-21-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6240]

National Flood Insurance Program; Proposed Base Flood Elevation and Zone Designation Determinations for the City of Sioux City, Woodbury County, Iowa

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the City Planning and Zoning Office, City Hall, Sioux City, Iowa.

Send comments to: Mr. Jerry L. Hanson, Flood Insurance Coordinator, Sioux City Community Development Department, P.O. Box 447, Sioux City, Iowa 51102.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0216.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Sioux City, Iowa in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Big Sioux River:		
At the limit of detailed study	1,090	A12.
Just south of Interstate 29	1,094	A12.
Just north of Interstate 29	1,096	A22.
At Beck St. extended	1,099	A22.
Approximately 150 ft downstream of Military Rd.	1,103	A22.
At the northernmost corporate limits.	1,111	A22.

The area protected from the 100-year flood by the levee, which is subject to failure or overtopping during larger floods, is identified as Zone B. The floodway has been modified along the Big Sioux River.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support))

Issued: January 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–1574 Filed 1–21–82; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FEMA-6231]

National Flood Insurance Program; Proposed Base Flood Elevation and Zone Designation Determinations for Weld County, Colorado

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below. The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the County Planning Department, 915 Tenth Street, Greeley, Colorado. Send comments to: Mr. Brad Otis, County Commissioner, Weld County Courthouse, P.O. Box 758, Greeley, Colorado 80631.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0216.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for Weld County in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood

plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designations
Big Thompson River:		
Just upstream of County Road 27½.	4,699	A4.
Just downstream of County Road 25.	4,713	A4.
Just upstream of Route 257.....	4,744	A4.
Just upstream of County Road 17.	4,776	A4.
Just downstream of County Road 54.	4,797	A4.
At the westernmost corporate limits.	4,808	A4.

Also, along the Big Thompson River, in the vicinity of County Road 54, the proposed zone designation is Zone A0 (depth 2). Along Coal Creek, in the southwesternmost portion of the County, the special flood hazard area, identified as Zone A, has been annexed into the Town of Erie, Colorado.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support.)

Issued: January 4, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1569 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 6132]

National Flood Insurance Program; Proposed Base Flood Elevations, Zone Designations, and Regulatory Floodway Boundaries for Walker County, Georgia

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations, zone designations, and regulatory floodway boundaries described below. The proposed base flood elevations, zone designations, and regulatory floodway boundaries will be the basis for the flood plain management measures that the County is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the propoosed base flood elevations, zone designations and regulatory floodway boundaries are available for review at the County Commissioner's office. Send comments to: The Honorable Roy Parrish, Jr., Walker County Commissioner, Walker County Courthouse, Post Office Box 445, Lafayette, Georgia 30728.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, 500 C Street, Donohoe Building, Room 514, Washington, D.C. 20472, (202)287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations, zone designations, and regulatory floodway boundaries (100-year flood) for Walker County, Georgia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a)).

The proposed base flood elevations, zone designations, and regulatory floodway boundaries together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. The proposed base flood elevations, zone designations, and regulatory floodway boundaries will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents

The proposed 100-year flood elevations, zone designations, and regulatory floodway boundaries for selected locations are:

Source of flooding	Location	Elevation in feet
West Chickamauga Creek.	At southern railway bridge.	732.0
West Chickamauga Creek.	Confluence of Coke Oven Branch.	728.0
West Chickamauga Creek.	Approximately 400' upstream of U.S. Route 27.	722.0
West Chickamauga Creek.	Approximately 600' upstream of Lee and Gordon Mill Dam.	717.0
Unnamed tributary to Coke Oven Branch.	At upstream side of Wilder Road.	734.0

Pursuant to the provisions of 5 U.S.C. 605 (b), the Associate Director to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: December 30, 1981.

Lee M. Thomas

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1570 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6218]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 46 FR 62103 on December 22, 1981. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Harvard, Worcester County, Massachusetts.

EFFECTIVE DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Harvard, Worcester County, Massachusetts, previously published at 46 FR 62103 on December 22, 1981, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local commmunity, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

Under the Source of Flooding Bowers Brook in the Town of Harvard, Worcester County, Massachusetts, the elevation corresponding to the location "upstream crossing of Ayer Road (upstream)" should be amended to read 275.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 12, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1578 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6155]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Emergency Management Agency, (FEMA).

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Village of Mount Prospect, Cook County, Illinois, previously published at 45 FR 48956 on October 5, 1981.

EFFECTIVE DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Village of Mount Prospect, Cook County, Illinois previously published at 45 FR 48956 on October 5, 1981, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

Distances on Des Plaines River changed to correct a prior error in distance calculation and thereby be in agreement with the profile panel. The description change on Weller Creek was made to provide better correlation with the profile panel included with the study.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V) Mt. Prospect, Cook County	Weller Creek	Just downstream of Lincoln Street	*665
		Des Plaines River	About 1.0 mile upstream of Euclid Avenue	*637
			About 1.2 miles upstream of Euclid Avenue	*637

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director.)

Issued: December 24, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1568 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6181]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 46 FR 54604 on November 3, 1981. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Township of Rostraver, Westmoreland County, Pennsylvania.

EFFECTIVE DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Township of Rostraver, Westmoreland County, Pennsylvania, previously published at 46 FR 54604 on November 3, 1981, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

Source of flooding	Location	Elevation in feet (NGVD)
Youghiogheny River	Approximately 6,600' upstream of State Route 981.	*788
Tributary No. 1	Approximately 1,150' upstream of Golf Course Access Road.	*1,008

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director).

Issued: January 12, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1579 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6233]

National Flood Insurance Program; Proposed Special Flood Hazard Areas for the City of Crowley, Acadia Parish, Louisiana

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed special flood hazard areas as described below.

The proposed special flood hazard areas are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed special flood hazard are available for review at the Office of the City Inspector, City Hall, 5th Street and Avenue F, Crowley, Louisiana.

Send comments to: The Honorable Robert L. Istre, Mayor of Crowley, P.O. Box 1463, Crowley, Louisiana 70526.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E. Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0270.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed special flood hazard areas for the City of Crowley, Louisiana in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These special flood hazard areas, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed special flood hazard areas will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed special flood hazard areas are being increased along Drainage Ditch North, City Ditch, Bayou

Blanc, and the Tributary to City Ditch, due to more recent topographical information and to reflect the latest corporate limits. Along Drainage Ditch North, the proposed Special Flood Hazard Area, identified as Zone A1 (el 20), is extended to include the area generally bounded between Stutes Street and Seventeenth Street and between Avenue I and Texas Street. Along City Ditch, the proposed Special Flood Hazard Area is extended to include portions of those streets located between Fourteenth Street and Fourth Street and between the westernmost and easternmost corporate limits. The proposed zone designation along City Ditch is Zone A4 and the proposed base flood elevations range from 19 feet National Geodetic Vertical Datum (NGVD) to 21 feet NGVD.

Along Bayou Blanc, the proposed Special Flood Hazard Area, identified as Zone A5 (el 21), is extended to include the area generally bounded between Mead Street and Elm Street and between South Eastern Avenue and the easternmost corporate limits. Along the Tributary to City Ditch, the proposed special flood hazard area generally bounded between West Hutchinson Avenue and the Missouri Pacific Railroad and between Bowling Alley Road and the Missouri Pacific Railroad has been redesignated as Zone A.

In the recently annexed area, located between Fairway Drive and Seventeenth Street and west of Avenue I, the proposed special flood hazard area has been identified as Zone A1 (el 20). In the recently annexed area, located between Route 13 and Cherokee Road and north of Route 1111, the proposed special flood hazard area has been identified as Zone A.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 29, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1571 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 6241]

National Flood Insurance Program; Proposed Zone Designation and Base Flood Elevation Determinations for the Township of West Hempfield, Lancaster County, Pennsylvania

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed based flood elevations and zone designations described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the West Hempfield Township Building, 3401 Marietta Avenue, Lancaster, Pennsylvania.

Send comments to: Joseph J. Neley, Chairman of Supervisors, Township of West Hempfield, 3401 Marietta Avenue, Lancaster, Pennsylvania 17601.

FOR FURTHER INFORMATION: Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0270.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed base flood elevations and zone designations for the Township of West Hempfield, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

The zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding and location	Elevation national geodetic vertical datum	Zone designation
Susquehanna River:		
Upstream corporate limits	260	A9, B.
Immediately upstream of U.S. Route 30.	244	A9.
Immediately downstream of U.S. Route 30.	243	A9.
Columbia-Wrightsville Bridge	242	A9.
Downstream corporate limits	239	A9, B, C.
Strickler Run:		
Within area bounded on the east by Blue Lane Road and on the north, south, and west by the corporate limits.	255	A3.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1575 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6236]

National Flood Insurance Program; Proposed Base Flood Elevation and Zone Designation Determinations for the City of North Sioux City, Union County, South Dakota

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the floor-prone areas and the proposed base flood elevations and zone designations, are available for review at the Office of the Mayor, City Hall, North Sioux City, South Dakota.

Send comments to: The Honorable Larry Mahacek, Mayor, City of North Sioux City, P.O. Box 339, North Sioux City, South Dakota 57049.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E. Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0270.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of North Sioux City, South Dakota in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Big Sioux River:		
At the southernmost extraterritorial limits.	1100	A22.
Just downstream of Military Road.	1103	A22.
Approximately 500 feet upstream of Verna Street extended.	1106	A22.
At the northernmost corporate limits.	1111	A22.

In addition, special flood hazard areas, identified as Zone A, are being added around McCook Lake. The Zone A area north of County Road is a result of the overflow of Interstate 29 from the Big Sioux River upstream of the City of North Sioux City. The area protected from the 100-year flood by the levee, which is subject to failure or overtopping during larger floods, is identified as Zone B. The floodway has been modified along the aforementioned reach of the Big Sioux River.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 29, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1577 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6235]

National Flood Insurance Program; Proposed Zone Designation Determinations for the Borough of Myerstown, Lebanon County, Pennsylvania

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designations described below.

The proposed zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zone designations are available for review at 515 South College Street, Myerstown, Pennsylvania.

Send comments to: Edward Treat, Borough Manager, Borough of Myerstown, 515 South College Street, Myerstown, Pennsylvania 17067.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E. Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0270.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed zone designations for the Borough of Myerstown, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L.

93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations are as follows:

Source of flooding	Location	Zone designation
Tulpehocken Creek	Between South Railroad Street and South Broad Street.	A5.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 28, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–1576 Filed 1–21–82; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FEMA–6239]

National Flood Insurance Program; Proposed Zone Designation Determinations for the City of Noblesville, Hamilton County, Indiana

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designations described below.

The proposed zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zone designations are available for review at City Hall, 50 South Eighth Street, Noblesville, Indiana.

Send comments to: The Honorable Patricia A. Logan, City of Noblesville, City Hall, 50 South Eighth Street, Noblesville, Indiana 46060.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E. Chief Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0270.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed zone designations for the City of Noblesville, Indiana, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.

These zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations are as follows: Zone A and C along Morse Reservoir.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–1573 Filed 1–21–82; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FEMA–6238]

National Flood Insurance Program; Proposed Zone Designation and Base Flood Elevation Determinations for the City of West Chicago, DuPage County, Illinois

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at 475 Main Street, West Chicago, Illinois.

Send comments to: The Honorable A. Eugene Rennels, City of West Chicago, 475 Main Street, West Chicago, Illinois 60185.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E. Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0270.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed base flood elevations and zone designations for the City of West Chicago, Illinois, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.

These zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Unnamed Tributary of Kress Creek:		
In portions of the area bounded by Geneva Road, Burlington Northern Railroad, Town Road, and the corporate limits.	750	A3.
In portions of the area bounded by the State Highway 38 right-of-way extending east from Town Road to the corporate limits.	733	A5, B, C.
Kress Creek:		
In portions of the area bounded by the State Highway 38 right-of-way extending from Kress Road east to the corporate limits.	745	A3, B, C.
Indian Boundary Road	750	A1, C.
Industrial Drive	752	A1, C.
In an area east of the confluence of Kress Creek and the Unnamed Tributary of Kress Creek bounded by Kress Creek and the corporate limits.	724	A4.
Shallow Flooding:		
In portions of the area bounded by State Highway 64, State Highway 59, the Chicago and Northwestern Railroad Spur, and the corporate limits.	Not applicable	B, C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1567 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6234]

National Flood Insurance Program; Proposed Zone Designation Determinations for Dodge County, Unincorporated Areas, Minnesota

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designations described below.

The proposed zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zone designations are available for review at the Dodge County Court House, Office of County Zoning Administration, Mantorville, Minnesota.

Send comments to: Cec Samuelson, Administrator, Office of County Zoning Administration, County of Dodge, Court House, Mantorville, Minnesota 55955.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E. Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0270.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed zone designations for Dodge County, Minnesota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.

These zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations are as follows:

Zone A along the Middle Fork Zumbro River and its tributaries, Milliken Creek and

its tributaries, the North Branch Middle Fork Zumbro River, Harkcom Creek, the South Branch Middle Fork Zumbro River and its tributaries, Judicial Ditch No. 1, County Ditch No. 5, Dodge Center Creek, Henslin Creek and its tributaries, Salem Creek and its tributaries, Green Valley Ditch, Westfield-Ripley Ditch, the Little Cedar River and its tributaries, the Cedar River and its tributaries, the South Fork Zumbro River and its tributaries, Rice Lake, and a tributary of the North Branch Root River.

Zone C in those areas of the community not included in the above listing.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 22, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1572 Filed 1-21-82; 8:45 am]

BILLING CODE 6718-03-M

Notices

Federal Register
Vol. 47, No. 15
Friday, January 22, 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 Stabilization and Conservation Service

1982-Crop Peanuts; National Poundage Quota and Poundage Quota Referendum Period for 1982-Crop Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Determination.

SUMMARY: The purpose of this notice of determination is to: (a) establish and proclaim the national poundage quota for 1982-crop peanuts; (b) establish the date and period for holding the national referendum of peanut farmers for the crops of peanuts produced in the calendar years 1982, 1983, 1984 and 1985; and (c) withdraw the national acreage allotment and marketing quota proclaimed for 1982-crop peanuts.

This determination is necessary to satisfy the statutory requirements of the Agricultural Adjustment Act of 1938, as amended, including amendments contained in the Agriculture and Food Act of 1981 (hereinafter referred to as "the Act").

EFFECTIVE DATE: January 21, 1981.

FOR FURTHER INFORMATION CONTACT: Kenny Robison, Agricultural Economist, Agricultural Stabilization and Conservation Service, USDA, Room 3734-South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5188. The final regulatory impact analysis describing the impact of implementing this determination is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed under USDA procedures established to implement Executive Order 12291 and Secretary's memorandum No. 1512–1 and has been classified "not major". It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, industries, Federal, State, or local governments or geographical regions, or (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program that this notice of determination applies to are: Title—Commodity Loans and Purchases: Number 10.051, as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, a review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this determination since ASCS is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this determination.

The Agriculture and Food Act of 1981, effective December 22, 1981 changes for the 1982 through 1985 crops of peanuts the provisions governing national acreage allotments and national poundage quotas for peanuts by further amending section 358 of the Agricultural Adjustment Act of 1938, as amended, as follows:

(1) The acreage allotment and marketing quota provisions in section 358 (a) through (j) shall not be applicable to the 1982 through 1985 crops of peanuts.

(2) A new subsection (k) is added which established a national poundage quota for each of the 1982 through 1985 crops of peanuts. The national poundage quota for the 1982 crop of peanuts is 1,200,000 tons.

(3) A new subsection (o) is added which provides that not later than December 15 of each calendar year (or in the case of the 1982 crop, as soon as practicable after enactment of the Agriculture and Food Act of 1981), the Secretary shall conduct a referendum of farmers engaged in the production of quota peanuts in the calendar year in which the referendum is held to determine whether such farmers are in favor of or opposed to poundage quotas with respect to the crops of peanuts produced in the four calendar years immediately following the year in which the referendum is held, except that, if as many as two-thirds of the farmers voting in any referendum vote in favor of poundage quotas, no referendum shall be held with respect to quotas for the second, third, and fourth years of the period. The Secretary shall proclaim the result of the referendum within 30 days after the date on which it is held, and, if more than one-third of the farmers voting in the referendum vote against quotas, the Secretary also shall proclaim that poundage quotas will not be in effect with respect to the crop of peanuts produced in the calendar year immediately following the calendar year in which the referendum is held. For purposes of this subsection, if the referendum for the 1982 crop is held after December 31, 1981, it shall be deemed to have been held in calendar year 1981.

Because of the absence of new legislation by December 1, 1981, the legislative authority for the 1982 peanut crop reverted to the permanent provisions in the Agricultural Adjustment Act of 1938, as amended. These provisions required the proclamation of the national acreage allotment and the national marketing quota for 1982 crop peanuts by December 1. A notice proclaiming these determinations was published in the **Federal Register** on December 8, 1981 (46 FR 60039). This notice withdraws these determinations and announces a national poundage quota for 1982-crop peanuts as required by the Agriculture and Food Act of 1981.

The following determinations are made with respect to 1982-crop peanuts. The material previously appearing in §§ 729.100 through 729.104 under the heading "1981 Crop of Peanuts; Acreage Allotments and Poundage Quotas" remains in full force and effect for the 1981 crop.

Determinations

1. *National Poundage Quota for 1982-Crop Peanuts.* The national poundage quota for 1982-crop peanuts is hereby determined and proclaimed to be 1,200,000 tons, as prescribed under

section 358(k) of the Agricultural Adjustment Act of 1938, as amended.

2. *Period of Poundage Quota Referendum for the 1982, 1983, 1984, and 1985 Crops of Peanuts.* Section 358(o) of the Act, as amended, requires that a referendum of farmers who were engaged in the production of the 1981 crop of quota peanuts be held as soon as possible after enactment of the Agriculture and Food Act of 1981 to determine whether such farmers are in favor of or opposed to poundage quotas for the crops of peanuts produced in the calendar years 1982, 1983, 1984, and 1985. The referendum will be held during the period January 25–29, 1982, inclusive, by mail ballot. This referendum will be conducted under the procedures for conducting producers referenda set forth in 7 CFR Part 717.

3. *Withdrawal of Proclamation of National Acreage Allotment and National Marketing Quota for 1982-Crop Peanuts.* The notice of determination proclaiming the national acreage allotment and national marketing quota for 1982-crop peanuts, which was published in the **Federal Register** on December 8, 1981 (46 FR 60039), is hereby withdrawn. This determination was made in accordance with section 358(a) of the Act. The Agriculture and Food Act of 1981 amends Section 358 of the Agricultural Adjustment Act of 1938 by, among other things, suspending subsection (a) and adding a new subsection (k) which provides for a national poundage quota. The announcement of the 1982-crop national poundage quota, contained in this notice, supersedes the previous determination.

(Secs. 301, 358, 375, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 52 Stat. 66, as amended (7 U.S.C. 1301, 1358, 1375))

Signed at Washington, D.C. on January 12, 1982.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 82-1501 Filed 1-21-82; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration Alabama Electric Cooperative, Inc., and South Mississippi Electric Power Association; Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration as lead agency has prepared a Final Environmental Impact Statement (FEIS) in accordance with section 102(2)(C) of the National Environmental Policy act of 1969 (NEPA) (42 U.S.C. 4321(2)(C)), in connection with an anticipated application for financing assistance for Alabama Electric Cooperative, Inc., P.O. Box 550, Andalusia, Alabama 36420, and South Mississippi Electric Power Association, P.O. Box 1589, Hattiesburg, Mississippi 39401. The U.S. Fish and Wildlife Service has acted as a cooperating agency during the NEPA process.

The financing assistance would allow Alabama Electric Cooperative, Inc., and South Mississippi Electric Power Association to construct a proposed 51.5 km (32 mi) 230 kV transmission intertie connecting substations at Chatom, Washington County, Alabama, and Waynesboro, Wayne County, Mississippi, and to perform modifications at the substations. The project will enable Alabama Electric Cooperative, Inc., to deliver additional power and provide necessary voltage support to South Mississippi Electric Power Association's system, as well as improve the reliability of the total interconnected power system and provide for future purchase power agreements.

The proposed transmission right-of-way will cross approximately 3.2 km (2.0 mi) of 100-year floodplain and approximately 4.5 hectares (11 acres) of wetlands. REA has determined that there is no practicable alternative which avoids either floodplains or wetlands. Floodplain and wetland impacts are described in detail in §§ 6.3 and 6.4 of the FEIS.

Additional information on the proposed project may be secured from Mr. Frank W. Bennett, Director, Power Supply Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone: (202) 382–1400.

Copies of the Federal FEIS have been sent to various Federal, State and local agencies, as outlined in the Council on Environmental Quality regulations. A limited supply of the FEIS is available upon request to Mr. Bennett at the address given above. Copies of the FEIS may be examined during regular business hours at the Alabama Electric Cooperative, Inc., and South Mississippi Electric Power Association headquarters' buildings and at the following locations:

Rural Electrification Administration, 14th and Independence Avenue SW., Room 0230, Washington, D.C. 20250.

Waynesboro Memorial Library, 710 Wayne St., Waynesboro, Mississippi 39367.

Chatom Public Library, Chatom, Alabama 36518.

Persons, organizations and agencies wishing to comment should do so in writing within 30 days of this notice and address their correspondence to Mr. Bennett of REA at the address given above.

Final REA action pursuant to this proposed project (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to the environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

This federal assistance program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 13th day of January, 1928.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82-1564 Filed 1-21-82; 8:45 am]

BILLING CODE 3410-15-M

Central Electric Power Cooperative, Inc.; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact (FONSI) for the proposed financing assistance by REA for Central Electric Power Cooperative, Inc., (Central) Columbia, South Carolina, to construct 28.8 km (18 mi) of 115 kV transmission line, 3.2 km (2 mi) of 46 kV submarine cable from John's Island to Kiawah Island, a 115 kV switching station, and three 115/46 kV substations on John's Island, Charleston County, South Carolina. This finding, in accordance with REA Bulletin 20–21:320–21, Part I, was based on REA's independent evaluation, REA's Environmental Assessment (EA) and Central's Borrower's Environmental Report (BER).

Threatened and endangered species, important farmland, floodplains, wetlands, cultural resources and other potential impacts of the proposed project have been investigated adequately in te BER and EA. The transmission lines will cross aproximately 13.8 km (8.6 mi) of 500-year floodplain and 3.9 km (2.4 mi) of wetlands. Impacts to cultural resources and threatened and endangered species will be avoided or minimized during right-of-way selection and construction. Overall, the construction and operation of the proposed project will have no unacceptable impacts to the environment.

Several alternatives were evaluated including no action, conservation, new generation, increased capacity and alternative methods of delivery. After

consideration of these alternatives, REA has determined that the proposed project is an acceptable alternative for meeting Central's needs with a minimum of adverse environmental impact.

Copies of the FONSI, the EA and the BER may be obtained from or review in the office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, or may be reviewed in the offices of Central Electric Power Cooperative, Inc. (Mr. Patrick Allen, Manager), 121 Greystone Boulevard, P.O. Box 1455, Columbia, South Carolina 29202.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 12th day of January 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-1565 Filed 1-21-82; 8:45 am]

BILLING CODE 3410-15-M

Oglethorpe Power Corp.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has made a Finding of No Significant Impact (FONSI) with respect to the proposed use of general funds by Oglethorpe Power Corporation (Oglethorpe) of Atlanta, Georgia, to construct 11.7 km (7.3 mi) of 115 kV transmission line in Cobb and Cherokee Counties, Georgia. The proposed 115 kV line will extend from the existing Woodstock Substation to the new Mountain Park Substation. The line is needed to provide for the increasing power requirements and also improve transmission service reliability in that area. The 7.0 km (4.3 mi) of line near Woodstock willl be built on steel poles that can accommodate an anticipated 230 kV transmission line.

REA determined that the Borrower's Environmental Report (BER) submitted by Oglethorpe is an accurate assessment of the environmental aspects of the project. Based upon the BER and public response to the project, REA prepared an EA addressing the impacts of the proposed project. REA concluded that the proposed project would not be a major Federal action significantly affecting the quality of the human environment.

The proposed project will not affect floodplains, threatened or endangered species or known cultural resources. The transmission line will span a small tract of wetlands, but no structures will be placed in the wetlands. Any impacts to the wetlands will be limited to the construction period and will not be significant. The line will cross areas of prime forest and farmland. There is no practicable alternative to meeting power needs without crossing these lands. Structures will be sited in order to minimize the amount of productive land affected. In REA's judgment, construction, operation and maintenance of the project will not result in any unacceptable environmental impacts.

Oglethorpe and REA considered various alternatives to the proposed project, including no action and alternate routes. Based on the information in the BER and consideration of public comments, REA concluded that the proposed project is an acceptable alternative because it meets power needs with minimal adverse impact. In November 1981, Oglethorpe published the final set of public notices in newspapers local to Cobb and Cherokee Counties soliciting comments on the project. Several letters or phone calls were received which requested copies of the Borrower's Environmental Report. One comment addressed health effects of the line and line routing. These comments have been addressed.

The FONSI, EA and BER may be reviewed at or requested from the office of the Director, Power Supply Division, Room 0230, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone: (202) 382–1400; or the General Manager, Oglethorpe Power Corporation, 288 Woodcock Blvd., Tulane Building, P.O. Box 105033, Atlanta, Georgia 30348, telephone: (404) 455–1121.

This Program is listed in the Catalog of Federal Domestic Asistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 13th day of January 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82-1563 Filed 1-21-82; 8:45 am]

BILLING CODE 3410-15-M

Plains Electric Generation and Transmission Cooperative, Inc.; Supplemental Draft Environmental Impact Statement

The Rural Electrification Administration (REA) has prepared a Supplemental Draft Environmental Impact Statement (SDEIS) in connection with proposed changes to the water sources for the Plains Electric Generation and Transmission Cooperative, Inc., (Plains)—Escalante Generating Station, located in McKinley County, New Mexico.

The SDEIS addresses the need for, alternatives to, and environmental impact of proposed changes from the plans detailed in the Final Environmental Impact Statement (FEIS) completed for the Plains-Escalante Generating Station and issued in January 1980. Proposed changes would include the drilling of wells in the State Well Field instead of the Cooper Well Field, and an extension of the previously approved 22 km (14 mi) pipeline corridor by approximately 10 km (6 mi) to connect the State Well Field.

Alternatives considered in this SDEIS are: no action which would mean development of the Cooper Well Field, development of the State Well Field and development of a combination of the Cooper and State Well Fields.

Copies of the SDEIS have been sent to various Federal, State and local agencies as outlined in the Council on Environmental Quality regulations. Limited supplies of the SDEIS are available upon request to: Mr. Frank Bennett, Director, Power Supply Division, Rural Electrification Administration, 14th St., and Independence Ave. SW, Washington, D.C. 20250.

The SDEIS may also be examined during regular business hours at the following locations:

Rural Electrification Administration, USDA, 14th and Independence Avenue SW., Room 0230, Washington, D.C. 20250.

Plains Electric Generation and Transmission Cooperative, Inc., 2401 Aztec Road NE., Albuquerque, New Mexico 87107.

Albuquerque Public Library, 501 Copper Avenue NW., Albuquerque, New Mexico 87102.

Gallup Public Library, 115 Hill Avenue, Gallup, New Mexico 87301.

Grants Public Library, 524 West High Street, Grants, New Mexico 87020.

Persons, organizations and agencies wishing to comment on the environmental aspects of the project should do so in writing by addressing their comments to Mr. Bennett of REA at the address given above. All comments received within the 45-day comment period will be considered in the formulation of final determinations regarding the Supplemental Final Environmental Impact Statement (SFEIS). Responses to all substantive comments will be published in the SFEIS.

Final REA action, concerning this project, including any release of funds

for water source construction, will be taken only after REA has reached a satisfactory conclusion with respect to the project's environmental effects and compliance with the National Environmental Policy Act of 1969, and with other environmentally related statutes, regulations, Executive Orders and Secretary's Memoranda.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 12th day of January, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82-1562 Filed 1-21-82; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Washington Mountain Brook Watershed, Massachusetts

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Availability of a Record of Decision.

FOR FURTHER INFORMATION CONTACT:

Sherman L. Lewis, State Conservationist, Soil Conservation Service, 451 West Street, Amherst, Massachusetts 01002, telephone 413-256-0441.

Notice: Sherman L. Lewis, responsible Federal official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of Massachusetts, is hereby providing notification that a record of decision to proceed with the installation of the Washington Mountain Brook Watershed project is available. Single copies of this record of decision may be obtained from Sherman L. Lewis at the above address.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 11, 1982.

Sherman L. Lewis,

State Conservationist.

[FR Doc. 82-1520 Filed 1-21-82; 8:45 am]

BILLING CODE 3410-16-M

Lower Bogue Phalia-Murphy Bayou Watershed, Miss.

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

FOR FURTHER INFORMATION CONTACT:

Billy C. Griffin, State Conservationist, Soil Conservation Service, Suite 1321, Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269, telephone 601-960-5205.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Lower Bogue Phalia-Murphy Bayou Watershed, Washington and Bolivar Counties, Mississippi.

The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Billy C. Griffin, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for watershed protection, flood prevention and drainage. Alternatives under consideration to reach these objectives include systems for conservation land treatment, nonstructural measures and channel improvement.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Meetings will be held as needed to determine the scope of the evaluation of the proposed action. Further information on the proposed action, or the scoping meetings may be obtained from Billy C. Griffin, State Conservationist, at the above address or telephone 601-960-5205.

(Catalog of Federal Domestic Assistance Program No. 10.904, Flood Control Act, Pub. L. 78-534, 58 Stat. 905)

Dated: January 11, 1982.

Billy C. Griffin,

State Conservationist.

[FR Doc. 82-1434 Filed 1-21-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 40139]

American Airlines, Inc.; Assignment of Enforcement Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to Judge Vittone.

Dated at Washington, D.C., January 18, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-1646 Filed 1-21-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-1-77]

Application of Transportes Aereos Kantuta, LTDA, Trak Airlines

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to show cause: order 82-1-77.

SUMMARY: The Board proposes to approve the following application:

Applicant: Transportes Aereos Kantuta, LTDA., Trak Airlines.

Application Date: August 14, 1981 as supplemented November 9, 1981.

Docket: 39926.

Authority Sought: Foreign air carrier permit to engage in nonscheduled foreign air transportation of property and mail between Bolivia and Miami via Panama.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN February 12, 1982, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of the Republic of Bolivia. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 39926, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428

Transportes Aereos Kantuta, LTDA., Trak Airlines, c/o Mr. Robert M. Hausman, Hausman and Rosenthal,

P.C., 1747 Pennsylvania Ave., NW., Washington, D.C. 20036

TO GET A COPY OF THE COMPLETE ORDER: Request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Gerald Caolo, Regulatory Affairs Division of the Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5371.

By the Civil Aeronautics Board, January 18, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–1644 Filed 1–21–82; 8:45 am]

BILLING CODE 6320–01–M

[Docket 33363]

Former Large Irregular Air Service Investigation; Applications of Star Airlines, Inc. Dockets 40357, 40358; Assignment of Proceeding

This proceeding, insofar as it involves the applications of Star Airlines, Inc., Dockets 40357 and 40358, has been assigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Dated at Washington, D.C., January 18, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82–1645 Filed 1–21–82; 8:45 am]

BILLING CODE 6320–01–M

[Docket 39975]

Trenton Hub Express Airline Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter is assigned to be held on January 28, 1982, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

The issues in the proceeding will be those prescribed by the Board in Order 81–12–146. Parties will present at the conference requests for any evidence in addition to that submitted with the application and be prepared to propose further procedural dates.

Dated at Washington, D.C., January 18, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82–1647 Filed 1–21–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 5–81; Foreign-Trade Zone No. 22]

Application for a Special-Purpose Subzone-Industry Impact Study; Chicago

This notice concerns the application of the Chicago Regional Port District, grantee of Zone 22, filed by the Foreign-Trade Zones Board on May 11, 1981, requesting authority to establish a foreign-trade subzone at the UNR-Levitt steel tube plant in Chicago (46 FR 27364, 5/19/81). A public hearing was held on the matter on June 18, 1981, and the open record period for comments was extended to September 1, 1981 (46 FR 38736, 7/29/81). During the open record period a number of comments in opposition were received from the domestic steel industry.

In order to assist the examiners committee in its evaluation of the proposal, the Board's Executive Secretary requested from the Bureau of Industrial Economics, U.S. Department of Commerce (BIE), an economic analysis as to the impact on the national economy and competing domestic industry of allowing the steel tube plant to operate under foreign-trade zone procedures. The analysis was completed on January 4, 1982.

Notice is hereby given that the application record has been reopened to parties of record for comments on the BIE economic impact report. Comments should be submitted with 12 copies and must be received or postmarked by February 26, 1982.

The report is available for inspection at the Reading Room of the Office of Import Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW, Room 2804, Washington, D.C. 20230 (202–377–1248).

Dated: January 19, 1982.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 82–1600 Filed 1–21–82; 8:45 am]

BILLING CODE 3510–25–M

International Trade Administration

Fireplace Mesh Panels From Taiwan; Preliminary Affirmative Determination of Sales at Less Than Fair Value

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Preliminary affirmative determination of sales at less than fair value: Fireplace mesh panels from Taiwan.

SUMMARY: We have preliminary determined that fireplace mesh panels from Taiwan are being sold in the United states at less than fair value. We have notified the U.S. International Trade Commission of our determination and are directing the U.S. Customs Service to suspend liquidation of all entries or warehouse withdrawals of this merchandise for consumption in the United States. We are also directing the Customs Service to require a cash deposit, bond, or other security in an amount equal to the estimated dumping margin of 2.31 percent of the f.o.b. value of the fireplace mesh panels, except for such merchandise manufactured by Fuan Da Industrial Co., Ltd, for which we found no estimated dumping margins. Unless we extend the investigation, we will make our final determination by April 2, 1981.

EFFECTIVE DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Steve Garment, Office of Investigations, Import Administration International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–1756.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based on our investigation, we have preliminarily determined that there is reason to believe or suspect that fireplace mesh panels from Taiwan are being sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended ("the Act"). We have preliminarily determined that, with the exception of fireplace mesh panels produced by Fuan Da Industrial Co., Ltd., the U.S. price of the merchandise is less than its foreign market value. The estimated range of margins for Yeh Seng Wire Mesh & Screen Co., Ltd. is 1.88–44.16 percent, with a weighted-averaged margin of 2.31 percent. We did not find margins with respect to sales made by the Fuan Da Industrial Co., Ltd. We are not, however, excluding Fuan Da from this affirmative preliminary determination, because we have not yet

received, analyzed, and verified sufficient information to satisfy ourselves that there have been no sales at less than fair value.

Therefore, for the purposes of this preliminary determination, we are suspending liquidation as to this manufacturer, but we are not requiring a cash deposit, the posting of a bond or other security. Before making our final determination, we will request and verify additional information from both companies.

Case History

On August 11, 1981 we received a petition in proper form from International Management Service Associates, Inc. of Sinking Spring, Pennsylvania. The petition alleged that fireplace mesh panels from Taiwan were being sold in the United States at less than fair value, and that such sales were materially injuring a U.S. industry. The petitioner found evidence of sales at less than fair value by comparing the purchase price of the goods in question with their constructed value.

After reviewing the petition, we decided it contained sufficient grounds to initiate an antidumping investigation. Therefore, we notified the U.S. International Trade Commission ("ITC") of our determination, and on September 8, 1981, we announced the initiation (46 FR 44805). On September 24, 1981, the ITC preliminarily found that there is reasonable indication that these imports are materially injuring or are threatening to materially injure a U.S. industry (46 FR 49679–83).

Scope of the Investigation

For purposes of this investigation, fireplace mesh panels are defined as pre-cut, flexible mesh panels, both finished and unfinished, which are constructed of interlocking spirals of steel wire and are of a kind used in the manufacture of safety screening by U.S. manufacturers of fireplace accessories and zero-clearance fireplaces. Zero-clearance fireplaces are defined as prefabricated fireplaces which are constructed in such a way that they can be placed into the structure of a house with zero-clearance, i.e., they can be in direct contact with the floors and walls and do not require insulation such as brick or stone. Fireplace mesh panels are currently classifiable under items numbers 642.8700 or 654.0045 of the Tariff Schedules of the United States Annotated, depending on their stage of processing.

Our investigation covered the Fuan Da Industrial Co., Ltd. and the Yeh Seng Wire Mesh & Screen Co., Ltd., the only known manufacturers of fireplace mesh panels in Taiwan during the period of investigation.

This investigation covers the period of March 1, 1981—August 31, 1981.

Methodology for Fair Value Comparison

In making a fair value comparison, we compared United States price with the foreign market value.

U.S. Price

To determine the United States price of the merchandise, we used purchase price, as defined in section 772(b) of the Act, because the merchandise was sold to an unrelated U.S. customer at a price agreed upon before it was imported into the United States.

We calculated the purchase price on the basis of the f.o.b. Taiwan price with deductions, where appropriate, for inland freight, bank service charges, commissions, and Customs brokerage fees.

Foreign Market Value

To arrive at the foreign market value of fireplace mesh panels, we used constructed value, as defined in section 773(e) of the Act, because there were no sales of mesh fireplace panels in the home market or to third countries.

We constructed the foreign market value of the fireplace mesh panels on a company-by-company basis. We calculated the constructed value on the basis of the cost of materials, cost of fabrication, general, selling and administrative expenses, profit, and the cost of packing. Where actual costs or expenses were not available, we used the best information available in accordance with section 776(b) of the Act. For general expenses, selling expenses, and administrative expenses ("G.S. & A.") and profit, we applied statutory minimums of 10 percent and 8 percent, respectively.

Since Yeh Seng Wire Mesh & Screen Co., Ltd. did not supply sufficient documentation for labor costs and factory overhead, we used the labor rates of Fuan Da Industrial Co., Ltd. in computing Yeh Seng's labor cost. For factory overhead, we applied the per unit factory overhead cost used in the Fuan Da calculations. In the absence of 1981 factory overhead cost data for Fuan Da, we used 1980 figures with an adjustment for inflation. Where Yeh Seng could not document an element of its packing costs, we applied Fuan Da's actual packing costs.

Verification

In accordance with section 776(a) of the Act, we attempted to verify all information submitted and relied on in this determination. We used standard verification procedures, including on-site inspection of the operations and examination of accounting records and randomly selected documents containing relevant information. We will ask for and verifty additional information before making a final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we direct the U.S. Customs Service ("Customs") to suspend, upon this notice's publication, the liquidation of merchandise subject to this investigation that is entered into the United States for consumption or withdrawn from warehouses for consumption. Customs will require a cash deposit, bond, or other security in the amount of 2.31 percent of the f.o.b. value of such merchandise, except that no cash deposit, bond, or other security will be required for fireplace mesh panels manufactured by the Fuan Da Industrial Co., Ltd. This suspension will remain in effect until further notice.

ITC Notification

We are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will 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 written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

If requested, we will hold a public hearing to afford interested parties an opportunity to comment orally on this preliminary determination. This hearing is scheduled for 10:00 a.m. on February 12, 1981, U.S. Department of Commerce, Room 3080, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

All requests for hearings must be submitted within ten days of the publication of this notice to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the same address. They should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by February 5, 1981. Oral presentations will be limited to the issues raised in the briefs.

Any written views should be filed in accordance with 19 CFR 353.46 at the

above address, in at least ten copies, and on or before February 24, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-1599 Filed 1-21-82; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Business Development Pilot Projects; Applications Solicited

January 13, 1982.

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority business Development Agency (MBDA) announces that it is soliciting applications for cooperative agreements under its Business Development Center (BDC) program to operate pilot projects for a twelve (12) month period. Applicants will be required to contribute at least 10% to the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fees for services or in-kind contributions. The estimated cost of each project including the maximum federal participation and the minimum amount required for non-federal participation is included in the following description of each project.

CLOSING DATE: February 25, 1982.

ADDRESS: Dallas Regional Office, Minority Business Development Agency, 1100 Commerce Street, room 7B19, Dallas, Texas 75242. For further information contact Ms. Kathy Bowman, Minority Business Program Technician, at (214) 767-8001.

(1) A cooperative agreement for BDC services to operate in Houston, Texas (SMSA) counties of Brazoria, Fort Bend, Harris, Liberty, Montgomery and Waller. The total cost will not exceed $700,000 including a maximum of $630,000 in federal funds and a minimum of non-federal participation of $70,000. The anticipated start date for the project is May 16, 1982 and the Project I.D. Number is 06-10-82000-01.

(2) A cooperative agreement for BDC services to operate in Oklahoma City, Oklahoma (SMSA) counties of Canadian, Cleveland, McClain, Oklahoma and Pottawatomie. The total cost will not exceed $170,000 including a maximum of $153,000 in federal funds and a minimum of non-federal participation of $17,000. The anticipated start date for the project is May 16, 1982 and the Project I.D. Number is 06-10-82010-01.

(3) A cooperative agreement for BDC services to operate in Corpus Christi, Texas (SMSA) counties of Nueces and San Patricio. The total cost will not exceed $250,000 including a maximum of $225,000 in federal funds and a minimum of non-federal participation of $25,000. The anticipated start date for the project is May 16, 1982 and the Project I.D. Number is 06-10-82013-01.

(4) A cooperative agreement for BDC services to operate in Dallas/Fort Worth, Texas (SMSA) counties of Dallas, Collin, Ellis, Kaufman, Rockwall, Tarrant, Denton, Johnson and Wise. The total cost will not exceed $410,000 including a maximum of $369,000 in federal funds and a minimum of non-federal participation of $41,000. The anticipated start date for the project is June 16, 1982 and the Project I.D. Number is 06-10-82001-01.

(5) A cooperative agreement for BDC services to operate in El Paso, Texas (SMSA) county of El Paso. the total cost will not exceed $410,000 including a maximum of $369,000 in federal funds and a minimum of non-federal participation of $41,000. The anticipated start date for the project is June 16, 1982 and the Project I.D. Number is 06-10-82003-01.

(6) A cooperative agreement for BDC services to operate in Little Rock, Arkansas (SMSA) county of Pulaski. The total cost will not exceed $170,000 including a maximum of $153,000 in federal funds and a minimum of non-federal participation of $17,000. The anticipated start date for the project is June 16, 1982 and the Project I.D. Number is 06-10-82012-01.

(7) A cooperative agreement for BDC services to operate in Austin, Texas (SMSA) counties of Hays and Travis. the total cost will not exceed $250,000 including a maximum of $225,000 in federal funds and a minimum of non-federal participation of $25,000. The anticipated start date for the project is June 16, 1982 and the Project I.D. Number is 06-10-82014-01.

(8) A cooperative agreement for BDC services to operate in McAllen, Texas (SMSA) county of Hidalgo. The total cost will not exceed $250,000 including a maximum of $225,000 in federal funds and a minimum of non-federal participation of $25,000. The anticipated start date for the project is July 1, 1982 and the Project I.D. Number is 06-10-82006-01.

(9) A cooperative agreement for BDC services to operate in Brownsville, Texas (SMSA) county of Cameron. The total cost will not exceed $250,000 including a maximum of $225,000 in federal funds and a minimum of non-federal participation of $25,000. The anticipated start date for the project is July 1, 1982 and the Project I.D. Number is 06-10-82008-01.

(10) A cooperative agreement for BDC services to operate in Shreveport, Louisiana (SMSA) parishes of Bossier, Caddo, and Webster. The total cost will not exceed $170,000 including a maximum of $153,000 in federal funds and a minimum of non-federal participation of $17,000. The anticipated start date for the project is July 1, 1982 and the Project I.D. Number is 06-10-82011-01.

(11) A cooperative agreement for BDC services to operate in San Antonio, Texas (SMSA) counties of Bexar, Comal, and Guadalupe. The total cost will not exceed $410,000 including a maximum of $369,000 in federal funds and a minimum of non-federal participation of $41,000. The anticipated start date for the project is July 1, 1982 and the Project I.D. Number is 06-10-82002-01.

(12) A cooperative agreement for BDC services to operate in New Orleans, Louisiana (SMSA) parishes of Jefferson, Orleans, St. Bernard, and St. Tammany. The total cost will not exceed $410,000 including a maximum of $369,000 in federal funds and a minimum of non-federal participation of $41,000. The anticipated start date for the project is July 16, 1982 and the Project I.D. Number is 06-10-82004-01.

(13) A cooperative agreement for BDC services to operate in Baton Rouge, Louisiana (SMSA) parishes of Ascension, East Baton Rouge, Livingston, and West Baton Rouge. The total cost will not exceed $170,000 including a maximum of $153,000 in federal funds and a minimum of non-federal participation of $17,000. The anticipated start date for the project is July 16, 1982 and the Project I.D. Number is 06-10-82009-01.

(14) A cooperative agreement for BDC services to operate in Albuquerque, New Mexico (SMSA) counties of Bernalillo and Sandoval. The total cost will not exceed $250,000 including a maximum of $225,000 in federal funds and a minimum of non-federal participation of $25,000. The anticipated start date for the project is July 16, 1982 and the Project I.D. Number is 06-10-82007-01.

(15) A cooperative agreement for BDC services to operate in Denver, Colorado (SMSA) counites of Adams, Arapahoe, Boulder, Denver, Douglas, Gilpin and Jefferson. The total cost will not exceed $250,000 including a maximum of $225,000 in federal funds and a minimum of non-federal participation of $25,000. The anticipated start date for the project is July 16, 1982 and the Project I.D. Number is 08-10-82005-01.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit—through which and from which information and assistance to and about minority businesses are funneled. Legal services are excluded.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application.

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff.*—Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (references from clients assisted are pertinent.)

Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort, i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint ventures.

Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A-110 or A-102.

II. *Techniques and Methodology.*—Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources.*—Address technical and administrative resources, i.e. computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: 1. cash contributions; 2. fee for services; and 3. in-kind contributions.

A. *Cash contribution*—Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—Are charges to the client for assistance provided by BDC.

C. *In-Kind contribution*—Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contribution are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. *Costs.*—Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

Clear explanations of all expenditures proposed, and

The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into ther Cooperative Agreement award.

A detailed justification of all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered nonresponsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A-95 requirements.

G. Pre-Application Conferences

Pre-Application conferences to assist all interested applicants will be held at 1100 Commerce Street, Room 7A23, Dallas, Texas on February 8, 1982 at 1:00 p.m. and at 1961 Stout Street, Room 239, Denver, Colorado on February 10, 1982 at 1:00 p.m.

(Catalog of Federal Domestic Assistance No. 11.800 Minority Business Development)

Richard H. Sewing,

Regional Director.

[FR Doc. 82-1539 Filed 1-21-82; 8:45 am]

BILLING CODE 3510-21-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade; Proposed Prime-Rate Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Chicago Board of Trade ("CBOT") has applied for designation as a contract market in prime-rate futures. The Commodity Futures Trading Commission (the "Commission") has determined that the terms and conditions of the proposed futures contract are of major economic significance and that, accordingly, making the proposed contract available for public inspection and comment 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 March 23, 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 CBOT prime-rate futures contract.

FOR FURTHER INFORMATION CONTACT: Ronald Hobson, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. (202) 254-7303.

SUPPLEMENTARY INFORMATION: A copy of the terms and conditions of the CBOT proposed prime-rate futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions, subject to claims of copyright, can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the CBOT in support of its application for contract market designation, also subject to claims of copyright, 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 inspection 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 contract, or with respect to other materials submitted by the CBOT in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by March 23, 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 January 19, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-1601 Filed 1-21-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, March 2, 1982; Tuesday, March 9, 1982; Tuesday, March 16, 1982; Tuesday, March 23, 1982; and Tuesday, March 30, 1982 at 10:00 a.m. in Room 3D321, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involved "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b (c)(4)).

However, members of the public who may wish to do so are invited to submit

material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 19, 1982.

[FR Doc. 82-1461 Filed 1-21-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Intent To Develop a Procedure To Estimate Resource Cost-Effectiveness; Request for Comments

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of intent to develop a procedure to estimate resource cost-effectiveness; request for comments.

SUMMARY: In order to effectively implement the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act), BPA intends to develop a procedure for estimating resource cost-effectiveness. This procedure would be used to reach an estimate of the cost-effectiveness of conservation, direct-application renewable, and electric generating resources. This notice is in response to public comment requesting that the proposed methodology for estimating quantifiable environmental costs and benefits be presented in the context of the entire resource cost-effectiveness estimation. At this time, BPA is requesting that interested persons submit suggestions, advice, and recommendations that will assist BPA in developing a proposed procedure for the estimation of resource cost-effectiveness.

This procedure will be developed in accordance with BPA's Procedure for Public Participation in Major Regional Power Policy Formulation. Following consideration of the public recommendations received in response to this notice, BPA expects to publish a proposal for the estimation of resource cost-effectiveness including a proposed methodology for quantifying environmental costs and benefits. Notice of a proposed procedure for estimating resource cost-effectiveness should be available during February 1982. Public comments forums will be scheduled at that time with opportunity for both oral and written comments. Following receipt and consideration of comments, BPA will publish a final procedure for estimating resource cost-effectiveness.

DATES: Suggestions and recommendations concerning the development of BPA's proposed procedure for estimating resource cost-effectiveness will be accepted through February 22, 1982. In addition, BPA will endeavor to meet with interested persons who may have questions regarding cost-effectiveness under the Regional Act. To request such a meeting, interested persons should contact the Area or District Manager in their locality or the office of the Public Involvement Coordinator.

Additionally, interested individuals are invited to attend a discussion of issues on estimating resource cost-effectiveness scheduled for February 9, 1982, at the BPA Headquarters, Room 464, 1002 NE. Holladay, Portland, Oregon, from 9 a.m. to 12 noon.

SUPPLEMENTARY INFORMATION:

Introduction. Section 6 of the Regional Act (Pub. L. 96-501) requries that the Administrator, with a narrow exception in Section 6(c), acquire resources which are cost-effectiveness. Section 3(4) states that a cost-effectiveness resource must be forecast:

(A) * * *

(i) To be reliable and available within the time it is needed, and

(ii) To meet or reduce the electric power demand, as determined by the Regional Council or the Administrator, as appropriate, of the consumers of the customers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof.

(B) For purposes of this paragraph, the term "system cost" means an estimate of all direct costs of a measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer, and, among other factors, waste disposal costs, end-of-cyle costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as the Administrator determines, on the basis of a methodology developed by the Regional Council as part of the plan, or in the absence of the plan by the Administrator, are directly attributable to such measure or resource.

(C) In determining the amount of power that a conservation measure or other resource may be expected to save or to produce, the Council or the Administrator, as the case may be, shall take into account projected realization factors and plant factors, including appropriate historical experience with similar measures or resources.

(D) For purposes of this paragraph, the "estimated incremental system cost" of any conservation measure or resource shall not be treated as greater than that of any nonconservation measure or resource unless the incremental system cost of such conservation measure or resource is in excess of 110 per centum of the incremental system cost of the nonconservation measure or resource.

II. *Action.* Neither the Regional Act nor the accompanying legislative history specifies in detail how BPA is to estimate resource cost-effectiveness. BPA has, therefore, formed internal work groups to address issues such as a methodology to estimate quantifiable environmental costs and benefits, the selection of a discount rate, procedures to assure uniform treatment of cost across resource types, sensitivity analyses, and others.

Through previous notices in the **Federal Register**, BPA has solicited public comment on a methodology to estimate quantifiable environmental costs and benefits. Comments from these notices and during the Congressional Subcommittee on Energy Conservation and Power oversight hearing of November 10, 1981, indicate that there is significant interest in many additional issues related to how BPA will estimate resource cost-effectiveness. Therefore, to provide potential sponsors and the interested public with a clearer understanding of the procedure to be used to reach an estimation of cost-effectiveness, BPA intends to develop and publish the procedure in accord with its Procedure for Public Participation in Major Regional Power Policy Formulation (46 FR 26268). The proposed methodology to estimate quantifiable environmental costs and benefits will be incorporated in the proposed procedure to estimate resource cost-effectiveness.

III. *Issues Identified to Date.* The Regional Act clearly states that all direct costs of a resource including transmission and distribution, waste disposal, end-of-cycle, fuel and quantifiable environmental costs and benefits are to be considered. Other direct costs include the cost of constructiion, operation and maintenance, and administrative and general expenses. The regional power system also will incur costs (support costs), both positive and negative, as new resources are added. These support costs include costs associated with

operational changes, the provision of reserves, incremental power and energy losses due to specific locations, and the necessity of peak support.

After the appropriate cost elements have been identified, the estimation and treatment of the costs and benefits must be addressed. The costs and benefits of resources occur over time, but it is necessary to evaluate the stream of costs and benefits in the present. Several issues related to this have been identified including:

(a) The particular method by which all costs and benefits, including a determination of the present worth of energy streams, are to be brought forward in time (a mills per kilowatthour figure);

(b) The selection of a discount rate;

(c) Whether the analysis of capital and variable costs should be performed in real or nominal terms; and

(d) The appropriate source for any required cost inflators or deflators.

While there is considerable expertise available to estimate most costs, the estimation of environmental costs and benefits is not well developed. BPA is continuing to study all issues identified through the two **Federal Register** notices (46 FR 22925 and 46 FR 50096) concerning a methodology for estimating quantifiable environmental costs and benefits. More information and analysis is also needed for the estimation of end-of-cycle costs.

Once estimates are determined for the costs and benefits of a resource, their use in the decisionmaking process requires knowledge of the assumptions underlying the estimates. Estimates can be particularly sensitive to the choice of discount rates, financing costs, expected output or savings, date of commercial operation, and environmental costs and benefits. To assure that the decisionmaker is aware of the validity of the cost estimates, critical assumptions underlying the estimates of costs and benefits may need to be subjected to sensitivity analysis. There may be areas other than those identified above which also require sensitivity analysis, depending on the resource or specific technology.

Another issue arises from the fact that the concept of resource cost-effectiveness is not strictly monetary. As explained in the proposed methodology for estimating quantifiable environmental costs and benefits, BPA does not believe it is currently possible to produce an accurate dollar estimate for all environmental costs and benefits. Those costs and benefits that cannot be assigned a dollar value, however, must be considered by the decisionmaker. Other nonmonetary information that may be important includes the requirements placed upon BPA by its power sales contracts with its customers including the time in which the power is needed, the quality of power being offered to meet such needs, and resource and load location; the potential for conservation in the region and the related net requirements on BPA; and considerations of optimal system planning.

A cost-effective resource, therefore, is not just the resource with the lowest dollar cost. Rather, it is the resource which meets or reduces electric power demand with the least incremental system cost, within the terms of the Regional Act, including all environmental costs and benefits and support costs, that is reliable and available when needed to help meet the Administrator's obligations.

IV. *Public Involvement.* Through this notice, BPA seeks to involve the public in the development of a proposed procedure for the estimation of resource cost-effectiveness. Interested persons are invited to submit recommendations and suggestions through February 22, 1982, to the Public Involvement Coordinator.

A special discussion session of issues germane to the estimation of resource cost-effectiveness is also scheduled. This is to be held February 9, 1982, at the BPA Headquarters, Room 464, 1002 NE. Holladay, Portland, Oregon 97232, from 9 a.m. to 12 noon.

During February 1982, after receiving and evaluating public suggestions, advice, and recommendations, BPA will publish, for formal review, a proposed procedure to estimate resource cost-effectiveness.

V. *Definitions.* As used in this notice, the term—

(a) "Administrator" means the Administrator of the Bonneville Power Administration.

(b) "Council" or "Regional Council" means the members appointed to the Pacific Northwest Electric Power and Conservation Planning Council.

(c) "Regional Plan" means the Regional Electric Power and Conservation plan, including any amendments thereto, adopted pursuant to Pub. L. 96-501 (Regional Act).

(d) "Resource" means—(1) electric power, including the actual or planned electric power capability of generating facilities, or (2) actual or planned load reduction resulting from direct application of a renewable energy resource by a consumer, or from a conservation measure.

FOR FURTHER INFORMATION CONTACT:

Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503-230-4261. Oregon callers may use the toll-free number 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800-547-6048.

Mr. George Gwinnutt, Area Manager, Suite 288, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-345-0311.

Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. Gordon H. Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406-755-6202.

Mr. Ronald K. Rodewald, District Manager, P.O. Box 741, Wenatchee, Washington, 98801, 509-662-4377, extension 379.

Mr. Thomas M. Noguchi, Acting Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-422-4130.

Mr. Roy Nishi, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Issued in Portland, Oregon, January 15, 1982.

Earl E. Gjelde,

Acting Administrator.

[FR Doc. 82-1660 Filed 1-21-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 81-CERT-028]

American Cyanamid Co.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On February 5, 1981, American Cyanamid Company (American Cyanamid, One Cyanamid Plaza, Wayne, New Jersey 07470), was granted a recertification of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 81-CERT-002). The certification involved the purchase of natural gas from Conecuh-Monroe Counties Gas District for use by American Cyanamid at its acrylic fiber plant located in Pensacola, Florida. The ERA certificate expires on February 4, 1982.

On December 15, 1981, American Cyanamid filed an application for

recertification of an eligible use of natural gas to displace fuel oil at its Pensacola plant pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6013, 2000 M Street, N.W., Washington, D.C., from 8:30 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays.

In its application, American Cyanamid states that the volume of natural gas for which it requests recertification is up to 3,000 Mcf per day. The use of this gas is estimated to displace the use of up to 20,000 gallons (476 barrels) of No. 6 fuel oil (2.5 percent sulfur) per day at the Pensacola plant. The eligible seller of the natural gas is Conecuh-Monroe Counties Gas District, P.O. Box 310, Evergreen, Alabama 36401. The gas will be transported by United Gas Pipe Line Company, 700 Milam, P.O. Box 1478, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6304, RG–13, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to American Cyanamid and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C. on January 8, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 82-1654 Filed 1-21-82; 8:45 am]

BILLING CODE 6450-01-M

Bayou State Oil Corp. and Ida Gasoline Co., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a final Consent Order.

EFFECTIVE DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, (214) 767–7745.

SUPPLEMENTARY INFORMATION: On November 17, 1981, Volume 46 FR 56496, the Office of Enforcement of the ERA published notification in the **Federal Register** that it had executed a proposed Consent Order with Bayou State and Ida on October 20, 1981 which would not become effective sooner than thirty days after publication. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

Although interested persons were invited to submit comments regarding the proposed Consent Order, no comments were received. The proposed Consent Order, therefore, was finalized and made effective on the date of this participation.

Issued in Dallas, TX on the 29th day of December 1981.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 82-1655 File 1-21-82; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 81-CERT-027]

Capco Pipe Company, Inc.; Recertification of Eligible Use of Natural Gas to Displace Fuel Oil

On December 7, 1981, Capco Pipe Company, Inc. (Capco), formerly Cement Asbestos Products Company, 1400 Twentieth Street, South, P.O. Box 3435, Birmingham, Alabama 35255, filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 an application for recertification of an eligible use of up to 575 Mcf of natural gas per day to displace approximately 4,164 gallons (99 barrels) of No. 2 fuel oil (0.12 percent sulfur) per day at its production facility located in Ragland, Alabama. The eligible seller of the natural gas is Alabama Gas Corporation, 1918 First Avenue, Birmingham, Alabama 35295. The gas will be transported by Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202. Notice of that application was published in the **Federal Register** (46 FR 62492, December 24, 1981) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. The public comment period has expired and no comments were received.

On December 28, 1980, Capco received a one-year recertification (ERA Docket No. 80–CERT–041) of an eligible use of natural gas at the Ragland facility purchased from Alabama Gas Corporation, which expired on December 27, 1981.

The ERA has carefully reviewed Capco's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Capco's application satisfies the criteria enumerated in 10 CFR Part 595, and therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual recertification are available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6013, 2000 M Street, NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

This recertification was issued prior to the expiration of the 10-day public comment period and made effective on December 28, 1981, to provide continuity with the previous certificate's December 27, 1981, expiration date. The recertification involves the displacement of fuel oil and it is in the public interest to maximize the displacement of fuel oil. This purchase and use of gas has qualified as an "eligible use" for the past two years.

Issued in Washington, D.C., on January 8, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 82-1656 filed 1-21-82; 8:45 am]

BILLING CODE 6450-01-M

Pioneer Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a final Consent Order.

EFFECTIVE DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager for Enforcement, Southwest District Office, Department of Energy, P. O. Box 35228, Dallas, Texas 75235 (214) 767–7745.

SUPPLEMENTARY INFORMATION: On December 3, 1982, 46 FR 58733 1981, the Office of Enforcement of the ERA published notification in the **Federal Register** that it had executed a proposed Consent Order with Pioneer Corporation on November 19, 1981, which would not become effective sooner than thirty days after publication. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

Although interested persons were invited to submit comments regarding the proposed Consent Order, no comments were received. The proposed Consent Order, therefore, was finalized and made effective on Janury 22, 1982.

Issued in Dallas, Texas on the 5th day of January 1982.

Herbert F. Buchanan,

Deputy District Manager, Southwest District, Economic Regulatory Administration.

[FR Doc. 82–1657 Filed 1–21–82; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Volume 577]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 19, 1982.

JD NO	JA DKT	API NO	D	SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION								
-ADDISON ENERGY INC				RECEIVED: 12/17/81 JA: TX				
8211094	F-7B-043113	4204932320		102-4	BRANDT #4	(WEENEDA)	12.0	ODESSA NATURAL CO
-AMERADA HESS CORPORATION				RECEIVED: 12/17/81 JA: TX				
8211241	F-8A-043434	4216532029		103	SEMINOLE SAN ANDRES UNIT #1015	SEMINOLE SAN ANDRES	0.1	PHILLIPS PETROLEU
8211239	F-8A-043432	4216532028		103	SEMINOLE SAN ANDRES UNIT #1309	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8211240	F-8A-043433	4216532021		103	SEMINOLE SAN ANDRES UNIT #1409	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8211243	F-8A-043436	4216537022		103	SEMINOLE SAN ANDRES UNIT #1410	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8211237	F-8A-043430	4216532036		103	SEMINOLE SAN ANDRES UNIT #1614	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8211242	F-8A-043435	4216532095		103	SEMINOLE SAN ANDRES UNIT #4125	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8211238	F-8A-043431	4216531993		103	SEMINOLE SAN ANDRES UNIT #4126	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8211245	F-8A-043438	4216531932		103	SEMINOLE SAN ANDRES UNIT #4319	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8211244	F-8A-043437	4216532010		103	SEMINOLE SAN ANDRES UNIT #4321	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
-AMMEX PETROLEUM INC				RECEIVED: 12/17/81 JA: TX				
8211034	F-03-042806	4205131729		102-2	SHERRY UNIT #1	GIDDINGS (AUSTIN CHALK-3	316.8	CLAJON GAS CO
8211034	F-03-042806	4205131729		103	SHERRY UNIT #1	GIDDINGS (AUSTIN CHALK-3	316.8	CLAJON GAS CO
-AMOCO PRODUCTION CO				RECEIVED: 12/17/81 JA: TX				
8211091	F-06-043101	4220330862		103	CHARLOTTE MORRIS HYNSON GAS UNIT #1	WOODLAWN/COTTON VALLEY/	50.0	EAST TEXAS INDUST
8211091	F-06-043101	4220330862		107-TF	CHARLOTTE MORRIS HYNSON GAS UNIT #1	WOODLAWN/COTTON VALLEY/	50.0	EAST TEXAS INDUST
8211120	F-8A-043170	4221931981		102-4	J M DAVIS #2	LEVELLAND(ABO)	1.6	AMOCO PRODUCTION
8211092	F-05-043102	4220330835		102-4	MCGEE GAS UNIT /B/ #1	WOODLAWN S W /COTTON VAL	130.0	EAST TEXAS INDUST
8211092	F-06-043102	4220330835		107-TF	MCGEE GAS UNIT /B/ #1	WOODLAWN S W /COTTON VAL	130.0	EAST TEXAS INDUST
8211119	F-6E-043169	4240131086		103	R F RUSSELL B #8	EAST TEXAS	3.7	EXXON CO U S A
-ARCO OIL AND GAS COMPANY				RECEIVED: 12/17/81 JA: TX				
8211213	F-7C-043350	4223531786		103	J R SCOTT EST "50" #2	SPRABERRY TREND AREA	21.6	J L DAVIS
8211214	F-7C-043351	4223531803		103	J R SCOTT ESTATE "54" #7	SPRABERRY TREND AREA	25.2	J L DAVIS
-B & B FARM INDUSTRIES INC				RECEIVED: 12/17/81 JA: TX				
8211089	F-10-043097	4217930806		102-4	BATES #1-54 L	NORTH LAKETON (ELLENBURG	360.0	PIONEER CORP
8211090	F-10-043098	4217930806		102-4	BATES 1-54 U	NORTH LAKETON (LWR PENN)	140.0	PIONEER CORP
-BAR M PETROLEUM CO INC				RECEIVED: 12/17/81 JA: TX				
8211047	F-03-042948	4205131603		103	SISTERS #1	GIDDINGS (AUSTIN CHALK)	72.0	FERGUSON CROSSING
-CA-TEX PETROLEUM INC				RECEIVED: 12/17/81 JA: TX				
8211265	F-09-043487	4250335316		102-2	C K GARVEY C #2	YOUNG COUNTY REGULAR	0.0	MID STATES GAS CO
-CARTER ENERGY CORP				RECEIVED: 12/17/81 JA: TX				
8211040	F-09-042865	4249700000		103	ROSIE BOAZ #2	BOONSVILLE (CADDO LIME)	20.0	LONE STAR GAS CO
-CHAMPLIN EXPLORATION INC				RECEIVED: 12/17/81 JA: TX				
8211233	F-03-043408	4214930622		103	HULDA KARISCH #1 (RRC# 13479)	GIDDINGS (AUSTIN CHALK)	0.6	PHILLIPS PETROLEU
8211236	F-03-043414	4214930808		103	RIGHTMER B-1 (RRC ID# 13835)	GIDDINGS (AUSTIN CHALK)	6.0	PHILLIPS PETROLEU
-CITIES SERVICE COMPANY				RECEIVED: 12/17/81 JA: TX				
8211152	F-04-043262	4242700000		108	MARTINEZ B #6 (02349)	RINCON NORTH	3.5	TENNESSEE GAS PIP
8211151	F-04-043261	4242700000		108	MARTINEZ C #2 (09400)	RINCON NORTH 5900	2.5	TENNESSEE GAS PIP
8211046	F-7C-042938	4246131748		103	NEAL B #3	BENEDUM (FUSSELMAN)	173.0	

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-CLOUDBERRY CO						RECEIVED: 12/17/81 JA: TX			
8211122	F-09-043174	4250333373		103		TYSON #1	YOUNG COUNTY REGULAR	15.0	SOUTHWESTERN GAS
8211116	F-09-043164	4250333382		103		TYSON #2	YOUNG COUNTY REGULAR	15.0	SOUTHWESTERN GAS
8211123	F-09-043175	4250333827		103		TYSON #4	YOUNG COUNTY REGULAR	15.0	SOUTHWESTERN GAS
8211121	F-09-043172	4250333821		103		TYSON #5	YOUNG COUNTY REGULAR	15.0	SOUTHWESTERN GAS
8211099	F-09-043123	4250333852		103		TYSON #6	YOUNG COUNTY REGULAR	15.0	SOUTHWESTERN GAS
-CLYDE MELTON						RECEIVED: 12/17/81 JA: TX			
8211030	F-7B-042773	4204931665		103		HARDY #1 (14581)	BROWN COUNTY REGULAR	4.0	ODESSA NATURAL CO
-COASTAL OIL & GAS CORP						RECEIVED: 12/17/81 JA: TX			
8211073	F-10-043062	4237530850		103		MASTERSON "B" 8358P	PANHANDLE (RED CAVE)	19.0	COLORADO INTERSTA
-COLUMBIA GAS DEVELOPMENT CORP						RECEIVED: 12/17/81 JA: TX			
8211290	F-05-043631	4205131846		102-2		M J FILIPPONE #5	GIDDINGS (AUSTIN CHALK-3	38.0	FERGUSON CROSSING
-CONOCO INC						RECEIVED: 12/17/81 JA: TX			
8211283	F-7B-043568	4215100000		108		LUCIE MAE WILSON #21 ID #01915	ROUND TOP	4.3	LONE STAR GAS CO
8211284	F-08-043569	4200300000		108		UNIVERSITY-12-#4 ID #25466	HUTEX	0.5	PHILLIPS PETROLEU
8211282	F-08-043564	4213500000		108		WIGHT UNIT #122 ID #20661	COWDEN N	2.4	AMOCO PRODUCTION
8211281	F-08-043563	4213500000		108		WIGHT UNIT #77 ID #20661	COWDEN N	13.4	AMOCO PRODUCTION
-CORDOVA RESOURCES INC						RECEIVED: 12/17/81 JA: TX			
8211048	F-7B-042961	4213300000		108		SCOTT #2-A	EASTLAND COUNTY REGULAR	0.0	ODESSA NATURAL CO
-CPC EXPLORATION INC						RECEIVED: 12/17/81 JA: TX			
8211064	F-03-043015	4214930911		102-2		ATLANTA HATFIELD LEASE NO 14599	GIDDINGS (AUSTIN CHALK)	100.0	PHILLIPS PETROLEU
-DALLAS PRODUCTION INC						RECEIVED: 12/17/81 JA: TX			
8211246	F-7B-043443	4236731616		108		BROWDER #1 ID #84800	MUIR (STRAWN 4400)	14.4	SOUTHWESTERN GAS
8211247	F-7B-043444	4236731709		108		FOSTER ESTATE #1 ID #88488	MUIR (STRAWN 4400)	7.5	SOUTHWESTERN GAS
8211248	F-7B-043445	4236731632		108		KIRK #1 ID #84561	MUIR (STRAWN 4400)	5.3	SOUTHWESTERN GAS
8211215	F-7B-043371	4236731551		108		MOORE "A" #1 RRC ID #84799	MUIR (STRAWN 4400)	18.3	SOUTHWESTERN GAS
8211249	F-7B-043446	4236731644		108		SCOTT "B" #1 ID #88242	WEATHERFORD SW (STRAWN)	9.5	SOUTHWESTERN GAS
-DALLAS SUNBELT OIL & GAS INC						RECEIVED: 12/17/81 JA: TX			
8211077	F-7B-043072	4213332789		102-4		KIRK #1 (17497)	RANGER N W (MARBLE FALLS	36.0	LONE STAR GAS CO
8211076	F-7B-043071	4213300000		102-4		KIRK #2 (17497)	RANGER N W (MARBLE FALLS	71.0	LONE STAR GAS CO
-DALPORT OIL CORPORATION						RECEIVED: 12/17/81 JA: TX			
8211078	F-04-043076	4240931451		102-4		CAMPBELL ESTATE #2	MIDWAY (5680)	10.0	ARCO OIL & GAS CO
-DIAMOND SHAMROCK CORPORATION						RECEIVED: 12/17/81 JA: TX			
8211134	F-10-043202	4229500000		108		ANITA B ANTHONY #1-372	LIPSCOMB SW	13.0	SOUTHWESTERN PUBL
8211133	F-10-043201	4234100000		108		POWELL C #2	PANHANDLE WEST	13.0	NORTHERN NATURAL
-DINERO OIL CO						RECEIVED: 12/17/81 JA: TX			
8211285	F-01-043570	4250731260		103		R B WILLOUGHBY #2	LEONA (ELAINE)	58.0	VALERO TRANSMISSI
8211286	F-01-043572	4240731529		103		R B WILLOUGHBY #7	LEONA (ELAINE)	58.0	VALERO TRANSMISSI
-DUNIGAN OPERATING CO INC						RECEIVED: 12/17/81 JA: TX			
8211075	F-10-043066	4239300000		108		MARTHA KELLEY (22578) #1	QUINDUNO (LOWER ALBANY D	11.0	NATURAL GAS PIPEL
-DYCO PETROLEUM CORPORATION						RECEIVED: 12/17/81 JA: TX			
8211043	F-10-042884	4241131221		103		HARDIN #1-12	CAMPBELL RANCH (UPPER MO	70.0	NORTHERN NATURAL
-ENERGY RESERVES GROUP INC						RECEIVED: 12/17/81 JA: TX			
8211062	F-09-043005	4249732222		103		ISRAEL ESTATE GAS UNIT #2	BOONSVILLE (BEND CONGLOM	121.0	NATURAL GAS PIPEL
-ENRICH OIL CORPORATION						RECEIVED: 12/17/81 JA: TX			
8211129	F-7B-043186	4235331158		102-4		DOUBLE M RANCH-F&W #3-83 ID15877	DOUBLE M RANCH (COOK SD)	120.8	SUN GAS CO
8211130	F-7B-043187	4235331170		102-4		J M MCLAUGHLIN #6-12 ID-95380	JMM SOUTH (COOK)	232.1	SUN GAS CO
-ENSOURCE INC						RECEIVED: 12/17/81 JA: TX			
8211079	F-7C-043077	4246131695		103		AMACKER HALFF #47-4	SPRABERRY (TREND AREA)	0.0	PHILLIPS PETROLEU
8211085	F-7C-043089	4238331736		103		FRED BALL #2	SPRABERRY (TREND AREA)	12.0	EL PASO NATURAL G
8211086	F-7C-043090	4238331737		103		FRED BALL #3	SPRABERRY (TREND AREA)	16.4	EL PASO NATURAL G
8211082	F-7C-043083	4238331738		103		FRED BALL #4	SPRABERRY (TREND AREA)	12.8	EL PASO NATURAL G
8211083	F-7C-043084	4246100000		103		HALAMICEK "43" #1	SPRABERRY (TREND AREA)	0.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8211084	F-7C-043086	4246131692		103		HALFF 47 #1	SPRABERRY (TREND AREA)	15.6	PHILLIPS PETROLEU
8211080	F-7C-043079	4246131693		103		HALFF 47 #2	SPRABERRY (TREND AREA)	0.0	PHILLIPS PETROLEU
8211081	F-7C-043082	4246131631		103		LONG #1	SPRABERRY (TREND AREA)	22.0	PHILLIPS PETROLEU
8211088	F-7C-043096	4238300000		103		PALO-BOOTHE #1	SPRABERRY (TREND AREA)	13.9	
8211087	F-7C-043091	4238331843		103		PALO-BOOTHE G #1B	N E BARNHART (GRAYBURG)	5.5	
-EXXON CORPORATION				RECEIVED: 12/17/81 JA: TX					
8211266	F-08-043494	4249531391		103		BROWN-ALTMAN "B" #20	EMPEROR EAST (CLEAR FORK	160.0	PIONEER NATURAL G
8211267	F-08-043495	4247531820		103		EDGAR J MARSTON JR TRUSTEE B #1	RHODA WALKER (CANYON 590	59.0	UNITED TEXAS TRAN
8211096	F-08-043116	4237133445		103		FORT STOCKTON UNIT #1010	FORT STOCKTON (YATES LOW	21.0	NUECES CO
*8211287	F-04-043574	4235531498		102-4		K R CHILTIPIN 79 (87830)	ARNOLD-DAVID (10,400,W)	2800.0	ARMCO STEEL CORP
*8211156	F-04-043273	4227331435		102-4		K R CHILTIPIN 84 (87949)	ARNOLD-DAVID (10,400W)	2008.0	ARMCO STEEL CORP
*8211154	F-04-043271	4227331321		102-4		K R STATE 10,400 SD UNIT 4 (86808)	ARNOLD-DAVID (10,400)	475.0	ARMCO STEEL CORP
*8211158	F-04-043275	4235531289		102-4		K R STATE 10,400' SD UNIT 1 (80099)	ARNOLD-DAVID (10,400'C)	1500.0	ARMCO STEEL CORP
*8211155	F-04-043272	4235531388		102-4		K R STATE 10,400' SD UNIT 2 (83097)	ARNOLD-DAVID (10,400')	1250.0	ARMCO STEEL CORP
*8211157	F-04-043274	4235531556		102-4		K R STATE 9400' SAND UNIT 2 (89712)	ARNOLD-DAVID (9400 CENTR	1095.0	ARMCO STEEL CORP
*8211140	F-04-043238	4227330591		103		KING RAN SEELIGSON C-190-D (87899)	SEELIGSON (ZONE 21-E)	36.0	ARMCO STEEL CORP
-F L LIVINGSTON				RECEIVED: 12/17/81 JA: TX					
8211029	F-08-042768	4249500000		108		J B WALTON #9 (03258)	KERMIT	10.0	CABOT CORP
-FRAC INC				RECEIVED: 12/17/81 JA: TX					
8211110	F-08-043151	4200332858		103		THORNBERRY 13 #2 #26820	FUHRMAN-MASCHO	14.2	PHILLIPS PETROLEU
8211109	F-08-043150	4200332886		103		THORNBERRY 13 #3 #26820	FUHRMAN-MASCHO	13.1	PHILLIPS PETROLEU
-G C HERRMANN CO				RECEIVED: 12/17/81 JA: TX					
8211042	F-10-042877	4217930257		103		JACKSON 02497 #15	PANHANDLE	20.8	PHILLIPS PETROLEU
-GAGE & CO				RECEIVED: 12/17/81 JA: TX					
8211136	F-7B-043233	4235331161		102-4		ARLEDGE A #1 (17640)	YELLOW WOLF NW (CANYON)	788.4	SUN OIL CO
8211095	F-09-043114	4223732774		102-4		BETTY SMITH HARRIS #1 (86190)	JACKSBORO NW (CONGL)	0.0	SOUTHWESTERN GAS
8211139	F-7C-043236	4208131021		102-4		J S WALKER A #1 09075	SILVER (CANYON)	162.4	SUN OIL CO
8211051	F-08-042975	4235331070		103		JAHEW JAMESON A #2 26764	JAMESON NORTH (ODOM)	43.8	SUN OIL CO
8211137	F-7C-043234	4235331075		102-4		JAMESON G #1 09083	SILVER (CANYON)	323.8	SUN OIL CO
8211138	F-7C-043235	4235331074		102-4		JAMESON H #1 09084	SILVER (CANYON)	353.3	SUN OIL CO
-GETTY OIL COMPANY				RECEIVED: 12/17/81 JA: TX					
8211072	F-10-043051	4223331112		103		HERRING A TRACT 2 #115	PANHANDLE HUTCHISON	67.5	PANHANDLE EASTERN
8211262	F-04-043483	4247900000		108		J C MARTIN #7	AGUILARES (ZONE 3-A)	39.0	VALERO TRANSMISSI
8211260	F-02-043480	4212300000		108		JIMMIE SPEED #1 77771	HENZE (WILCOX 10,850)	5.4	VALERO TRANSMISSI
8211127	F-08-043184	4210332500		103		N MCELROY UNIT #2116 RRC #310377	MCELROY	4.0	PHILLIPS PETROLEU
8211125	F-08-043182	4210332503		103		N MCELROY UNIT #2703 RRC #20337	MCELROY	4.0	PHILLIPS PETROLEU
8211126	F-08-043183	4210332522		103		N MCELROY UNIT #2815 RRC #20377	MCELROY	2.0	PHILLIPS PETROLEU
8211128	F-08-043185	4210332524		103		N MCELROY UNIT #2816 RRC #20377	MCELROY	2.0	PHILLIPS PETROLEU
8211261	F-02-043481	4202500000		108		V KUBALA #2 RRC #04840	YOUGEEN (VICKSBURG 3800)	9.0	UNITED GAS PIPELI
8211259	F-04-043479	4247900000		108		WALKER C #3	GLEN MARTIN (WILCOX 6450	11.0	VALERO TRANSMISSI
-GRAND BANKS ENERGY CO				RECEIVED: 12/17/81 JA: TX					
8211289	F-8A-043614	4211531564		103		DYER "A" #1	ACKERLY (DEAN SAND)	51.8	TEXACO INC
-GRAND PETROLEUM CO				RECEIVED: 12/17/81 JA: TX					
8211168	F-10-043288	4217900000		108		URBANCZYK (02720) #1	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8211159	F-10-043279	4217900000		108		URBANCZYK (02720) #10	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8211167	F-10-043287	4217900000		108		URBANCZYK (02720) #2	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8211166	F-10-043286	4217900000		108		URBANCZYK (02720) #3	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8211165	F-10-043285	4217900000		108		URBANCZYK (02720) #4	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8211164	F-10-043284	4217900000		108		URBANCZYK (02720) #5	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8211163	F-10-043283	4217900000		108		URBANCZYK (02720) #6	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8211162	F-10-043282	4217900000		108		URBANCZYK (02720) #7	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8211161	F-10-043281	4217900000		108		URBANCZYK (02720) #8	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8211160	F-10-043280	4217900000		108		URBANCZYK (02720) #9	PANHANDLE GRAY COUNTY	2.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-GULF OIL CORPORATION				RECEIVED: 12/17/81 JA: TX					
8211097	F-08-043118	4238900365		108		BARBER W T -A- #5	WAHA NORTH (DELAWARE SAN	1.0	TRANSWESTERN PIPE
8211141	F-10-043240	4206500000		108		COOPER B #1	PANHANDLE CARSON	0.0	GETTY OIL CO
8211147	F-10-043246	4206500000		108		COOPER B #2	PANHANDLE CARSON	0.0	GETTY OIL CO
8211146	F-10-043245	4206500000		108		COOPER B #3	PANHANDLE CARSON	0.0	GETTY OIL CO
8211142	F-10-043241	4206500000		108		COOPER B #4	PANHANDLE CARSON	0.0	GETTY OIL CO
8211143	F-10-043242	4206500000		108		COOPER B #5	PANHANDLE CARSON	0.0	GETTY OIL CO
8211145	F-10-043244	4206500000		108		COOPER B #6	PANHANDLE CARSON	0.0	GETTY OIL CO
8211098	F-08-043121	4247501272		108		ESTES W A #52	WARD-ESTES NORTH	1.0	CABOT CORP
8211118	F-08-043167	4249530400		108		KEYSTONE CATTLE CO #111	KEYSTONE (SAN ANDRES)	2.0	CABOT CORP
8211111	F-08-043152	4249530421		108		KEYSTONE CATTLE CO #320	KEYSTONE (SAN ANDRES)	2.0	CABOT CORP
8211117	F-08-043165	4249501232		108		KEYSTONE CATTLE CO #8	KEYSTONE (SAN ANDRES)	1.0	CABOT CORP
8211093	F-08-043109	4238910235		108		LIGON S E #6	WAHA WEST (DELAWARE)	1.0	TRANSWESTERN PIPE
8211061	F-08-043003	4222723466		103		LILLIAN SPALDING #1	KNOTT WEST (PENN REEF)	56.2	GETTY OIL CO
-MANLEY COMPANY				RECEIVED: 12/17/81 JA: TX					
8211101	F-7C-043126	4238331923		103		UNIVERSITY 2-35A (09010) #1	SPRABERRY (TREND AREA)	0.0	NORTHERN NATURAL
8211100	F-7C-043125	4238331924		103		UNIVERSITY 2-35B (09040) #1	SPRABERRY (TREND AREA)	10.0	NORTHERN NATURAL
-MNG OIL COMPANY				RECEIVED: 12/17/81 JA: TX					
8211071	F-04-043040	4235500000		108		DRISCOLL-SEVIER #3	BRAYTON (SIMMONDS)	47.4	HOUSTON PIPE LINE
-HOUSTON OIL & MINERALS CORPORATION				RECEIVED: 12/17/81 JA: TX					
8211033	F-8A-042799	4216500000		103		WATERS #3	WESTCOTT (STRAWN)	9.5	
-HUGHES & HUGHES				RECEIVED: 12/17/81 JA: TX					
8211066	F-04-043023	4235531708		102-4		ALTON H KOENNING #1	AGUA DULCE (7850)	50.0	HOUSTON PIPE LINE
8211031	F-04-042782	4235531632		102-4		J T KIRCHER #2	COTTON (8400')	100.0	FERGUSON CROSSING
8211065	F-04-043022	4235531525		102-4		R PHILIP SCHULZE #2	AGUA DULCE (7850)	22.0	HOUSTON PIPE LINE
-HUNT OIL COMPANY				RECEIVED: 12/17/81 JA: TX					
8211036	F-03-042841	4235100000		102-4		J E FREEMAN #1	WEIRGATE (AUSTIN CHALK)	180.0	NATIONAL GATHERIN
-HURLEY PETROLEUM CORPORATION				RECEIVED: 12/17/81 JA: TX					
8211049	F-06-042965	4236500000		108		ALLIE M HOGG 2-C	BETHANY (PETTIT) FIELD	18.0	TENNESSEE GAS PIP
8211144	F-06-043243	4236500000		108		SCOTT MCGEE #1-C	BETHANY (PETTIT)	18.0	TENNESSEE GAS PIP
-INDIAN WELLS OIL CO				RECEIVED: 12/17/81 JA: TX					
8211131	F-7C-043190	4223531763		103		PROBANDT #70-3	PROBANDT (CANYON)	140.0	CRA INC
8211132	F-7C-043192	4223531716		103		RICHEY 42A-4	PROBANDT (CANYON)	91.3	NORTHERN NATURAL
8211045	F-7C-042919	4210532934		107-TF		ROBERTSON 5A-1	OZONA (CANYON SAND)	0.0	DELHI PIPELINE CO
8211035	F-7C-042833	4210532933		103		ROBERTSON 5B-2	OZONA (CANYON SAND)	146.0	DELHI PIPELINE CO
8211035	F-7C-042833	4210532933		107-TF		ROBERTSON 5B-2	OZONA (CANYON SAND)	146.0	DELHI PIPELINE CO
-J CLEO THOMPSON & JAMES CLEO THOMPS				RECEIVED: 12/17/81 JA: TX					
8211059	F-08-042999	4200332737		103		WEST MEANS UNIT 19-6	MEANS	23.0	PHILLIPS PETROLEU
-J M HUBER CORPORATION				RECEIVED: 12/17/81 JA: TX					
8211232	F-10-043399	4223331079		103		PERKY #16	PANHANDLE	18.0	COLORADO INTERSTA
8211231	F-10-043398	4223331081		103		SOUTH HERRING #158	PANHANDLE	40.0	COLORADO INTERSTA
8211217	F-10-043374	4223331070		103		SOUTH HERRING #159	PANHANDLE	42.7	COLORADO INTERSTA
8211216	F-10-043373	4223331080		103		SOUTH HERRING #160	PANHANDLE	42.7	COLORADO INTERSTA
-JACKSON EXPLORATION INC				RECEIVED: 12/17/81 JA: TX					
8211050	F-04-042973	4247932557		107-TF		BARRERA #1	BARRERA (LOBO 6)	365.0	VALERO TRANSMISSI
-JIM BIRGE OIL & GAS				RECEIVED: 12/17/81 JA: TX					
8211055	F-7B-042983	4213332834		103		A J BECK #2 (17360)	EASTLAND COUNTY REGULAR	28.0	LONE STAR GAS CO
8211056	F-7B-042984	4213333067		103		A J BECK #3 (17360)	EASTLAND COUNTY REGULAR	12.0	LONE STAR GAS CO
-K-B EXPLORATION CO				RECEIVED: 12/17/81 JA: TX					
8211044	F-04-042891	4240931450		102-4		HELEN M TORIAN WELL NO 1	TORIAN	200.0	UNITED GAS PIPE L
-KODIAK ENERGY GROUP				RECEIVED: 12/17/81 JA: TX					
8211037	F-06-042848	4220330861		103		O R MEEK #1	L C G (PAGE)	328.0	UNITED GAS PIPELI
-LULING OIL AND GAS CO INC				RECEIVED: 12/17/81 JA: TX					

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8211038	F-02-042860	4202500000		103		ASHLAND #2	CAESAR	35.0	VALERO TRANSMISSI
-MCCANN CORP				RECEIVED: 12/17/81 JA: TX					
8211235	F-08-043412	4222732127		102-2		POWELL #2-18	COAHOMA N (FUSSEL)	28.8	GETTY OIL CO
8211235	F-08-043412	4222732127		103		POWELL #2-18	COAHOMA N (FUSSEL)	28.8	GETTY OIL CO
8211234	F-08-043411	4222732067		102-2		WILD HORSE #1-34	COAHOMA N (FUSSEL)	82.4	GETTY OIL CO
8211234	F-08-043411	4222732067		103		WILD HORSE #1-34	COAHOMA N (FUSSEL)	82.4	GETTY OIL CO
-MCCOMMONS OIL COMPANY				RECEIVED: 12/17/81 JA: TX					
8211170	F-09-043296	4249700000		108		A R CARTER #2	BOONSVILLE BEND (CONG GA	10.0	CITIES SERVICE CO
-MCMAHON-BULLINGTON DRLG CO				RECEIVED: 12/17/81 JA: TX					
8211069	F-09-043031	4223730583		108		FERGUSON #2-B 17210	JERRYE-JAN (CONGL)	10.0	TEXAS UTILITIES F
8211068	F-09-043030	4223730493		108		WARREN #1 17211	JERRYE-JAN (CONGL)	13.0	TEXAS UTILITIES F
-MCZ INC				RECEIVED: 12/17/81 JA: TX					
8211135	F-03-043229	4204100000		102-2		HARRISON OIL UNIT 1 #1	KURTEN	90.0	FERGUSON CROSSING
-MEWBOURNE OIL COMPANY				RECEIVED: 12/17/81 JA: TX					
8211230	F-10-043393	4235730790		108		SHANNON #1 RRC ID #75155	NORTHRUP (CLEVELAND)	20.0	EL PASO NATURAL G
-MITCHELL ENERGY CORPORATION				RECEIVED: 12/17/81 JA: TX					
8211280	F-09-043533	4223700000		108		L A WORTHINGTON #6 32397	BOONSVILLE (BEND CONGL G	8.1	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED: 12/17/81 JA: TX					
8211153	F-10-043270	4223331015		103		ELIZABETH HERRING #3	PANHANDLE HUTCHINSON COU	6.2	PHILLIPS PETROLEU
8211253	F-8A-043466	4221933427		103		NORTH CENTRAL LEVELLAND UNIT #346	LEVELLAND	5.5	AMOCO PRODUCTION
8211254	F-8A-043467	4221933244		103		NORTH CENTRAL LEVELLAND UNIT #347	LEVELLAND	1.1	AMOCO PRODUCTION
8211060	F-08-043002	4247532292		103		STATE AK #6	CAPRITO (DELAWARE MIDDLE	71.5	LONE STAR GAS CO
-MONSANTO COMPANY				RECEIVED: 12/17/81 JA: TX					
8211104	F-8A-043143	4207931442		103		CALVIN #39-118	LEVELLAND	11.0	CITIES SERVICE CO
8211103	F-08-043142	4200332542		103		FISHER #8	SHAFTER LAKE (SAN ANDRES	11.0	PHILLIPS PETROLEU
8211102	F-08-043141	4203332543		103		FISHER #9	SHAFTER LAKE (SAN ANDRES	11.0	PHILLIPS PETROLEU
8211106	F-8A-043145	4207931382		103		MASTEN #63	LEVELLAND	11.0	CITIES SERVICE CO
8211105	F-8A-043144	4207931383		103		MASTEN #65	LEVELLAND	11.0	CITIES SERVICE CO
8211107	F-8A-043146	4207931381		103		STARNES #41-47	LEVELLAND	11.0	CITIES SERVICE CO
8211108	F-8A-043147	4207931386		103		STARNES #41-48	LEVELLAND	11.0	CITIES SERVICE CO
8211150	F-08-043256	4200332741		103		UNIVERSITY 14-18 #1	SHAFTER LAKE (SAN ANDRES	11.0	PHILLIPS PETROLEU
8211148	F-08-043254	4200332743		103		UNIVERSITY 14-18 #7	SHAFTER LAKE (SAN ANDRES	11.0	PHILLIPS PETROLEU
8211149	F-08-043255	4200332758		103		UNIVERSITY 14-25 #5	SHAFTER LAKE (SAN ANDRES	11.0	PHILLIPS PETROLEU
-MURPHY H BAXTER				RECEIVED: 12/17/81 JA: TX					
8211032	F-03-042786	4203931658		102-4		WILLIAMSON #3	SOUTH ANGLETON (FRIO FB-	365.0	UNITED TEXAS TRAN
-NATOMAS NORTH AMERICA INC				RECEIVED: 12/17/81 JA: TX					
8211054	F-7C-042981	4245130697		103		JONES #1	STRAWN	483.0	NORTHERN NATURAL
-NICHOLS & BRADY PRODUCTION CO				RECEIVED: 12/17/81 JA: TX					
8211223	F-8A-043383	4216531205		103		BINGHAM #1 #62039	HOMANN (SAN ANDRES)	0.7	PHILLIPS PETROLEU
8211224	F-8A-043386	4216531763		103		BINGHAM "A" #2 ID #62566	HOMANN (SAN ANDRES)	0.6	PHILLIPS PETROLEU
8211225	F-8A-043387	4216531203		103		CUNNINGHAM #1 #61982	HOMANN (SAN ANDRES)	1.9	PHILLIPS PETROLEU
8211226	F-8A-043388	4216500000		103		CUNNINGHAM #2 #61982	HOMANN (SAN ANDRES)	1.4	PHILLIPS PETROLEU
8211227	F-8A-043389	4216531645		103		DORA "B" CUNNINGHAM #1	HOMANN (SAN ANDRES)	0.5	PHILLIPS PETROLEU
8211228	F-8A-043390	4216531349		103		HOMANN #1 #62191	HOMANN (SAN ANDRES)	0.4	PHILLIPS PETROLEU
8211229	F-8A-043391	4216531481		103		HOMANN #2	HOMANN (SAN ANDRES)	0.5	PHILLIPS PETROLEU
-NORTH AMERICAN ROYALTIES INC				RECEIVED: 12/17/81 JA: TX					
8211169	F-08043289	4222731706		102-4		I W WILLIAMS EST #1 (26811)	ISAAC (WOLFCAMP)	50.0	GETTY OIL CO
-PENN-TEX ENGINEERING				RECEIVED: 12/17/81 JA: TX					
8211057	F-78-042986	4213333170		102-4		ERNEST REICH #2 (17419)	MANGUM SOUTH (U MARBLE F	8.0	ODESSA NATURAL CO
-PHILCON DEVELOPMENT CO				RECEIVED: 12/17/81 JA: TX					
8211218	F-10-043376	4221130362		103		NIX #2 RRC #04711	GLAZIER NW (MORROW UPPER	146.0	DIAMOND SHAMROCK
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 12/17/81 JA: TX					
8211041	F-08-042873	4222732351		103		REEF A #5 (04552)	OCEANIC (PENNSYLVANIAN)	10.2	GETTY OIL CO

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-RALPH L WAY INC						RECEIVED: 12/17/81 JA: TX			
8211063	F-7C-043014	4238332042		103		UNIVERSITY 10 #10	FARMER (SAN ANDRES)	20.9	NORTHERN NATURAL
-SAMEDAN OIL CORPORATION						RECEIVED: 12/17/81 JA: TX			
8211291	F-8A-043637	4216532069		103		SOUTH CENTRAL ROBERTSON UNIT #52	ROBERTSON NORTH/CLEARFOR	35.0	PHILLIPS PETROLEU
-SAXON OIL COMPANY						RECEIVED: 12/17/81 JA: TX			
8211256	F-7C-043472	4246131757		103		HANKS "A" #3	SPRABERRY (TREND AREA)	32.9	MOBIL PRODUCING T
8211255	F-7C-043471	4246131755		103		HANKS A #4	SPRABERRY (TREND AREA)	30.7	MOBIL PRODUCING T
8211257	F-7C-043474	4246131702		103		SKAGGS #1	SPRABERRY (TREND AREA)	19.3	PHILLIPS PETROLEU
-SHELL OIL CO						RECEIVED: 12/17/81 JA: TX			
8211275	F-8A-043520	4216500000		108		BAUMGART GEORGE-D- #20	WASSON 72	2.0	SHELL OIL CO & CO
8211271	F-08-043516	4213500000		108		E HARPER UNIT #111	HARPER	1.4	PHILLIPS PETROLEU
8211270	F-08-043515	4213500000		108		E HARPER UNIT #208	HARPER	0.6	PHILLIPS PETROLEU
8211269	F-09-043514	4218100000		108		EMBRY J UNIT #1	BMC (V SDSTN)	10.5	UNION TEXAS PETRO
8211276	F-7C-043521	4210500000		108		FORRESTALL-B- #2	TIPPETT (LEONARD LO)	0.5	NELEH GAS & OIL C
8211273	F-09-043518	4218100000		108		GREEN T D #13	BMC (V SDSTN)	2.2	UNION TEXAS PETRO
8211113	F-04-043156	4242731311		102-4		J J HOWELL #3	LACOPITA (VICKSBURG Z NW	350.0	VALERO TRANSMISSI
8211112	F-04-043155	4242731469		103		J J HOWELL #4	LACOPITA (VICKSBURG X)	500.0	VALERO TRANSMISSI
8211114	F-04-043157	4242731521		103		J J HOWELL #5	LACOPITA (VICKSBURG W)	500.0	VALERO TRANSMISSI
8211278	F-08-043523	4213500000		108		JORDAN UNIVERSITY UNIT #611	JORDAN	0.4	PHILLIPS PETROLEU
8211279	F-08-043524	4200300000		108		LOGSDON C W-E- #1	UNION	0.8	PHILLIPS PETROLEU
8211272	F-08-043517	4213500000		108		TXL NORTH UNIT #581-L	TXL (TUBB)	3.1	SHELL
8211277	F-08-043522	4213500000		108		TXL-E- #8	TXL (SAN ANDRES)	5.3	SHELL OIL CO
8211274	F-08-043519	4213500000		108		UNIVERSITY-D- #9	JORDAN (DEVONIAN)	0.5	PHILLIPS PETROLEU
-SOUTHERN CRUDE OIL RESOURCES INC						RECEIVED: 12/17/81 JA: TX			
8211058	F-7B-042992	4236332639		102-4		DAUGHERTY UNIT #1 (ID NO 95162)	DIMPKIN (MARBLE FALLS)	0.0	INTRASTATE GATHER
-SUE-ANN OPERATING COMPANY						RECEIVED: 12/17/81 JA: TX			
8211039	F-03-042864	4208931241		103		WARSCHAK #1	FRELSBURG (Z-15-D)	200.0	CHANNEL INDUSTRIE
-SUN OIL COMPANY (DELAWARE)						RECEIVED: 12/17/81 JA: TX			
8211252	F-03-04345	4214930895		102-2		JAMES A MOORE #1	GIDDINGS (AUSTIN CHALK)	97.0	SOUTH CEN-TEX GAS
8211251	F-08-043456	4213500000		108		TXL #6	TXL (SAN ANDRES)	13.0	SHELL OIL CO
-TAYLOR OPERATING COMPANY						RECEIVED: 12/17/81 JA: TX			
8211250	F-09-045447	4249700000		103		T R JACKSON #1 (73165)	BOONSVILLE (BEND CONGL G	160.6	LONE STAR GAS CO
-TEXACO INC						RECEIVED: 12/17/81 JA: TX			
8211258	F-8A-043475	4221933103		103		MONTGOMERY ESTATE DAVIES NCT-2 #80	LEVELLAND	29.2	AMOCO PRODUCTION
-TEXAS CRUDE OIL INC						RECEIVED: 12/17/81 JA: TX			
8211211	F-06-043340	4200100000		107-TF		LEROY DUITCH #1	ELKHART (PETTIT)	365.0	TEXAS UTILITIES F
-TOM D HORN						RECEIVED: 12/17/81 JA: TX			
8211124	F-10-043177	4206500000		108		EDITH S HORN #1 (ID#46569)	PANHANDLE WEST	11.6	NATURAL GAS PIPEL
-TOM F MARSH INC						RECEIVED: 12/17/81 JA: TX			
8211212	F-10-043342	4248300000		102-4		ZYBACH #1-14	ZYBACH (15,000)	335.0	COLORADO INTERSTA
-TUTOR HYDROCARBONS INC						RECEIVED: 12/17/81 JA: TX			
8211221	F-7B-043381	4244131708		103		BOYD CRAYTON #1 (16930)	SHEP (CADDO)	39.0	UNION TEXAS PETRO
8211220	F-7B-043380	4244131629		103		EUGENE CRAYTON #1 (17001)	SHEP (CADDO)	23.0	UNION TEXAS PETRO
8211222	F-7B-043382	4244131658		103		J R CRAYTON #1 (16952)	SHEP (GRAY SAND)	25.0	UNION TEXAS PETRO
8211219	F-7B-043379	4244131528		103		TONY REGAN UNIT #1 (16732)	SHEP (CADDO)	14.0	UNION TEXAS PETRO
-TXO PRODUCTION CORP						RECEIVED: 12/17/81 JA: TX			
8211070	F-10-043039	4242130220		108		OWNBEY A #1	CATOR (KATHRYN)	15.0	PHILLIPS PETROLEU
-VANGUARD EXPLORATION CO INC						RECEIVED: 12/17/81 JA: TX			
8211115	F-09-043163	4249732014		103		MOSER #1 I D #92446	CHICO(CONGLOMERATE)5850	42.0	TEXAS UTILITIES F
-WAGNER & BROWN						RECEIVED: 12/17/81 JA: TX			
8211171	F-08-043297	4243130616		103		ALLEIN #1-22	CONGER (PENN)	149.0	VALERO TRANSMISSI
8211183	F-08-043311	4243130780		103		ALLEIN #4-27	CONGER (PENN)	52.0	VALERO TRANSMISSI
8211181	F-08-043309	4217330997		103		ALLEIN #5-27	CONGER (PENN)	256.0	VALERO TRANSMISSI

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8211180	F-08-043307	4217331001		103		ALLEIN #6-27	CONGER (PENN)	66.0	VALERO TRANSMISSI
8211185	F-08-043313	4217331142		103		ALLEIN "A" #7-28	CONGER (PENN)	140.0	VALERO TRANSMISSI
8211187	F-08-043315	4243130716		103		ALLEIN "A" 1-27	CONGER (PENN)	273.0	VALERO TRANSMISSI
8211182	F-08-043310	4217330960		103		ALLEIN "A" 2-28	CONGER (PENN)	73.0	VALERO TRANSMISSI
8211184	F-08-043312	4243130751		103		ALLEIN "A" 3-34	CONGER (PENN)	40.0	VALERO TRANSMISSI
8211173	F-08-043299	4217331038		103		ALLEIN 2-22	CONGER (PENN)	106.9	VALERO TRANSMISSI
8211186	F-08-043314	4243130725		103		BADE #2-15	CONGER (PENN)	59.0	VALERO TRANSMISSI
8211179	F-08-043306	4243130863		103		BADE #3-15	CONGER (PENN)	0.0	VALERO TRANSMISSI
8211178	F-08-043305	4243130805		103		BADE "A" #1-21	CONGER (PENN)	259.0	VALERO TRANSMISSI
8211175	F-08-043301	4243130872		103		BADE "A" #2-21	CONGER (PENN)	252.0	VALERO TRANSMISSI
8211176	F-08-043303	4243130761		103		CAMPBELL #1-15	CONGER (PENN)	141.0	VALERO TRANSMISSI
8211177	F-08-043304	4243130902		103		CAMPBELL #2-15	CONGER (PENN)	73.0	VALERO TRANSMISSI
8211174	F-08-043300	4243130738		103		CONGER #1-36	CONGER (PENN)	437.0	VALERO TRANSMISSI
8211172	F-08-043298	4243130779		103		CONGER #2-36	CONGER (PENN)	405.0	VALERO TRANSMISSI
8211188	F-08-043316	4243130836		103		CONGER #3-36	CONGER (PENN)	883.0	VALERO TRANSMISSI
8211190	F-08-043318	4243130836		103		CONGER #4-36	CONGER (PENN)	245.0	VALERO TRANSMISSI
8211191	F-08-043319	4243130875		103		CONGER #5-36	CONGER (PENN)	332.0	VALERO TRANSMISSI
8211210	F-08-043339	4217330927		103		EDMUNDSON #1-29	CONGER (PENN)	86.0	VALERO TRANSMISSI
8211189	F-08-043317	4243130638		103		FLINT #2-24	CONGER (PENN)	329.0	VALERO TRANSMISSI
8211209	F-08-043338	4243130707		103		FLINT "A" #1-30	CONGER (PENN)	336.0	VALERO TRANSMISSI
8211200	F-08-043328	4243130781		103		FLINT "A" #2-30	CONGER (PENN)	297.0	VALERO TRANSMISSI
8211201	F-08-043329	4243130857		103		FLINT "B" #1-1	CONGER (PENN)	38.0	VALERO TRANSMISSI
8211206	F-08-043334	4243130897		103		FLINT "B" #2-1	CONGER (PENN)	131.0	VALERO TRANSMISSI
8211205	F-08-043333	4243130914		103		FLINT "B" #3-1	CONGER (PENN)	770.0	VALERO TRANSMISSI
8211204	F-08-043332	4243130918		103		FLINT "B" #4-1	CONGER (PENN)	218.0	VALERO TRANSMISSI
8211203	F-08-043331	4243130926		103		FLINT "B" #5-2	CONGER (PENN)	700.0	VALERO TRANSMISSI
8211202	F-08-043330	4243130943		103		FLINT "B" #6-2	CONGER (PENN)	201.0	VALERO TRANSMISSI
8211207	F-08-043335	4243130601		103		GLASS #3-24	CONGER (PENN)	178.0	VALERO TRANSMISSI
8211196	F-08-043324	4243130735		103		GLASS #4-24	CONGER (PENN)	234.0	VALERO TRANSMISSI
8211193	F-08-043321	4243130718		103		GLASS "A" #3-13	CONGER (PENN)	203.0	VALERO TRANSMISSI
8211194	F-08-043322	4243130745		103		GLASS "A" #4-13	CONGER (PENN)	271.0	VALERO TRANSMISSI
8211197	F-08-043325	4243130782		103		GLASS "B" #3-22	CONGER (PENN)	245.0	VALERO TRANSMISSI
8211192	F-08-043320	4243130798		103		GLASS "B" #4-22	CONGER (PENN)	182.0	VALERO TRANSMISSI
8211195	F-08-043323	4243130743		103		GLASS "C" #2-4	CONGER (PENN)	376.0	VALERO TRANSMISSI
8211198	F-08-043326	4243130845		103		GLASS "C" #3-4	CONGER (PENN)	178.0	VALERO TRANSMISSI
8211199	F-08-043327	4243130864		103		GLASS "C" #4-4	CONGER (PENN)	178.0	VALERO TRANSMISSI
8211208	F-08-043336	4243130791		103		GLASS "D" #4-25	CONGER (PENN)	75.0	VALERO TRANSMISSI
-WAINOCO OIL & GAS CO				RECEIVED: 12/17/81 JA: TX					
8211067	F-10-043028	4221131238		107-DP		STICKLEY A #2	WASHITA CREEK (MORROW LO	400.0	KANSAS NEBRASKA N
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED: 12/17/81 JA: TX					
8211288	F-08-043577	4210332593		103		W N WADDELL 1196	SAND HILLS (TUBB)	80.8	EL PASO NATURAL G
8211268	F-08-043505	4210332639		103		W N WADDELL 1205	SAND HILLS (MCKNIGHT)	18.0	EL PASO NATURAL G
-WES-TEX DRILLING COMPANY				RECEIVED: 12/17/81 JA: TX					
8211292	F-7B-043640	4235330920		103		COMPTON #3	JMM (CANYON)	0.0	SUN GAS CO
-WHEELER OIL COMPANY				RECEIVED: 12/17/81 JA: TX					
8211074	F-10-043064	4248330804		108		H N ROACH (26942) #2	EAST PANHANDLE	10.0	HIGH PLAINS NATUR
-WINDSOR PRODUCING CO				RECEIVED: 12/17/81 JA: TX					
8211053	F-03-042980	4228731008		103		BALTIMORE UNIT #1	GIDDINGS (AUSTIN CHALK-3	36.5	PGP GAS PRODUCTS
8211052	F-03-042979	4228730997		103		KURIO UNIT #2	GIDDINGS (AUSTIN CHALK-3	36.5	PGP GAS PRODUCTS
-WY-VEL CORP				RECEIVED: 12/17/81 JA: TX					
8211263	F-10-043485	4206530961		103		ARNOLD (04894) #1	PANHANDLE CARSON COUNTY	44.0	GETTY OIL CO
8211264	F-10-043486	4206530992		103		RUBY MAE FROST ETUIR (02510) #7	PANHANDLE CARSON COUNTY	4.0	GETTY OIL CO

OTHER PURCHASERS VOLUME NO :577

8211140	E I DUPONT DENEMOURS & CO INC	8211155	E I DUPONT DE*NEMOURS & CO INC
8211154	E I DUPONT DE*NEMOURS & CO INC	8211156	E I DUPONT DE*NEMOURS & CO INC
		8211157	E I DUPONT DE*NEMOURS & CO INC
		8211158	E I DUPONT DE*NEMOURS & CO INC
		8211287	E I DUPONT DE NEMOURS & CO INC

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission by February 8, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–1639 Filed 1–21–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 19, 1982.

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-CONOCO INC			RECEIVED: 12/21/81 JA: CA						
8211508	81-2-0003	0411120963		103		GRUBB #100	SAN MIGUELITO	4.7	PACIFIC LIGHTING
8211509	81-2-0004	0411120939		103		GRUBB #205	SAN MIGUELITO	11.6	PACIFIC LIGHTING
8211506	81-2-0005	0411120787		103		GRUBB #371	SAN MIGUELITO	0.0	PACIFIC LIGHTING
8211507	81-2-0006	0411120788		103		GRUBB #372	SAN MIGUELITO	29.0	PACIFIC LIGHTING
COLORADO OIL & GAS COMMISSION									
-AMOCO PRODUCTION CO			RECEIVED: 12/17/81 JA: CO						
8211453	81-80	0512310050		103		ANDERSON FAMILY TRUST #2	WATTENBERG	230.0	PANHANDLE EASTERN
8211454	81-115	0512310031		103		ANDERSON FAMILY TRUST C #2	WATTENBERG	100.0	PANHANDLE EASTERN
8211472	81-116	0512309984		103		BENJAMIN TRUNZO GAS UNIT #2	WATTENBERG	466.0	PANHANDLE EASTERN
8211460	81-22	0512309922		103		EDWARD RADEMACHER UNIT #2	WATTENBERG	251.0	PANHANDLE EASTERN
8211458	81-483	0512309990		103		ELTON N MILLER B #2	WATTENBERG	315.0	PANHANDLE EASTERN
8211459	81-482	0512309991		103		ELTON N MILLER C #2	WATTENBERG	500.0	PANHANDLE EASTERN
8211470	81-536	0512309964		103		FLOYD SHAW #2	WATTENBERG	150.0	PANHANDLE EASTERN
8211456	81-21	0512310014		103		GLEN S DOUTHIT #2	WATTENBERG	242.0	PANHANDLE EASTERN
8211463	81-141	0512309929		103		J WALTER RANKIN UNIT #2	WATTENBERG	75.0	PANHANDLE EASTERN
8211455	81-487	0512310039		103		JACK BERGER GAS UNIT C #2	WATTENBERG	300.0	PANHANDLE EASTERN
8211461	81-50	0512310004		103		LOUIS J RADEMACHER G U #2	WATTENBERG	161.0	PANHANDLE EASTERN
8211473	81-263	0512309979		103		MARGARET TWOMBLY #2	WATTENBERG	270.0	PANHANDLE EASTERN
8211469	81-25	0512309937		103		NICK SEKICH UNIT B #2	WATTENBERG	174.0	PANHANDLE EASTERN
8211467	81-118	0512309989		103		ROBERT SAKATA UNIT #2	WATTENBERG	290.0	PANHANDLE EASTERN
8211466	81-486	0512310062		103		ROCKY MOUNTAIN FUEL CO UNIT G #2	WATTENBERG	300.0	PANHANDLE EASTERN
8211465	81-537	0512309958		103		ROCKY MOUNTAIN FUEL F #3	WATTENBERG	150.0	PANHANDLE EASTERN
8211464	81-114	0512309941		103		ROCKY MTN COORS SPRING WATER G U #2	WATTENBERG	268.0	PANHANDLE EASTERN
8211483	81-81	0512309976		103		ROLLIE J VINCENT UNIT #2	WATTENBERG	537.0	PANHANDLE EASTERN
8211468	81-265	0512310043		103		SARCHET UNIT #2	WATTENBERG	215.0	PANHANDLE EASTERN
8211471	81-538	0512309898		103		STATE OF COLO AM #1	WATTENBERG	150.0	PANHANDLE EASTERN
8211462	81-49	0512309993		103		THEO J RADEMACHER UNIT #2	WATTENBERG	388.0	PANHANDLE EASTERN
8211477	81-24	0512309895		103		UPRR 38 PAN AM G U K #1	WATTENBERG	292.0	PANHANDLE EASTERN
8211475	81-117	0512310055		103		UPRR 38 PAN AM GU H #2	WATTENBERG	252.0	PANHANDLE EASTERN
8211476	81-20	0512309938		103		UPRR 38 PAN AM I #2	WATTENBERG	223.0	PANHANDLE EASTERN
8211478	81-264	0512310053		103		UPRR 38 PAN AM M #1	WATTENBERG	143.0	PANHANDLE EASTERN
8211474	81-71	0512309962		103		UPRR 38 PAN AN G #2	WATTENBERG	209.0	PANHANDLE EASTERN
8211479	81-485	0512310046		103		UPRR 42 PAN AM AD #2	WATTENBERG	500.0	PANHANDLE EASTERN
8211480	81-23	0512309999		103		UPRR 42 PAN AM AO #2	WATTENBERG	279.0	PANHANDLE EASTERN
8211481	81-535	0512309743		103		UPRR 43 PAN AM T #1	WATTENBERG	150.0	PANHANDLE EASTERN
8211482	81-142	0512310032		103		VALLEY UNIT 66 #2	WATTENBERG	115.0	PANHANDLE EASTERN
8211457	81-484	0512310040		103		WILLARD HEIN GAS UNIT #2	WATTENBERG	355.0	PANHANDLE EASTERN
-BACA GAS GATHERING SYSTEM INC			RECEIVED: 12/17/81 JA: CO						

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8211484	81-27	0500906178		103		PETROWSKY #1	WALSH	182.5	COLORADO INTERSTA
-BRUCE F EVERTSON				RECEIVED: 12/17/81 JA: CO					
8211444	81-18	0512357720		102-4		KEISER-NELSON #A-1	WILDCAT	70.0	
-ENERGY MINERALS CORPORATION				RECEIVED: 12/17/81 JA: CO					
8211499	80-634	0512309677		108		BUCHHOLZ #1	ROGGEN	19.5	PHILLIPS PETROLEU
8211500	80-635	0512309456		108		PROSPECT #1	ROGGEN	20.3	PHILLIPS PETROLEU
-GRIFFIN PETROLEUM CORP				RECEIVED: 12/17/81 JA: CO					
8211445	81-19	0512398030		102-2		WHITTENBURG #6	WAITE LAKE	273.8	CRYSTAL GAS RESOU
-NIELSON ENTERPRISES INC				RECEIVED: 12/17/81 JA: CO					
8211501	81-393	0512307932		108		KERBS #1	WATTENBERG	20.0	PANHANDLE EASTERN
-NORTHWEST EXPLORATION COMPANY				RECEIVED: 12/17/81 JA: CO					
8211486	81-44-B	0504506256		103		CLOUGH #103	RULISON WASATCH	211.0	NORTHWEST PIPELIN
8211488	81-36	0504506230		103		CLOUGH #113	RULISON WASATCH	365.0	NORTHWEST PIPELIN
8211489	81-42	0504506266		103		CLOUGH #114	RULISON WASATCH	252.0	NORTHWEST PIPELIN
8211449	81-45	0504506241		102-2		CLOUGH #126	RULISON WASATCH	28.8	NORTHWEST PIPELIN
8211450	81-38	0504506270		102-2		CLOUGH #134	RULISON WASATCH	475.0	NORTHWEST PIPELIN
8211448	81-44	0504506256		102-2		CLOUGH 103	RULISON WASATCH	211.0	NORTHWEST PIPELIN
8211487	81-43	0504506271		103		CLOUGH 111	RULISON WASATCH	17.3	NORTHWEST PIPELIN
8211490	81-45-B	0504506241		103		CLOUGH 126	RULISON WASATCH	28.8	NORTHWEST PIPELIN
8211447	81-39	0504506233		102-2		CLOUGH 13	RULISON MESAVERDE	75.0	NORTHWEST PIPELIN
8211485	81-39-B	0504506233		103		CLOUGH 13	RULISON MESAVERDE	75.0	NORTHWEST PIPELIN
8211491	81-38-B	0504506270		103		CLOUGH 134	RULISON WASATCH	475.0	NORTHWEST PIPELIN
8211451	81-40	0504506206		102-2		GOLDING #138	RULISON WASATCH	1.8	NORTHWEST PIPELIN
8211492	81-40-B	0504506206		103		GOLDING #138	RULISON WASATCH	1.8	NORTHWEST PIPELIN
8211452	81-41	0504506222		102-2		LANGSTAFF #109	RULISON WASATCH	356.0	NORTHWEST PIPELIN
8211494	81-41-B	0504506222		103		LANGSTAFF 109	RULISON WASATCH	356.0	NORTHWEST PIPELIN
8211493	81-37	0504506228		103		VASSAR HEATH #130	RULISON WASATCH	42.0	NORTHWEST PIPELIN
-PATRICK A DOHENY				RECEIVED: 12/17/81 JA: CO					
8211498	81-340	0512109444		108		O'NEIL #1	SIOUX	14.5	KANSAS-NEBRASKA N
-SAGE DRILLING CO INC				RECEIVED: 12/17/81 JA: CO					
8211495	81-35	0506106284		103		SAGE WEAR 1-34	CAVALRY	172.2	
-SUPERIOR OIL CO				RECEIVED: 12/17/81 JA: CO					
8211502	81-733	0504505059		108		GROSS-HAHNEWALD #1	RULISON	0.0	WESTERN SLOPE GAS
8211503	81-729	0504506057		108		JUHAN #2	RULISON	0.0	WESTERN SLOPE GAS
-TENNECO OIL COMPANY				RECEIVED: 12/17/81 JA: CO					
8211505	81-592	0510307964		108		STEELE #9-35	FOUNDATION CREEK	20.0	NORTHWEST PIPELIN
-TXO PRODUCTION CORP				RECEIVED: 12/17/81 JA: CO					
8211504	81-724	0506700000		108		SCHALLES #1	IGNACIO BLANCO	20.0	EL PASO NATURAL G
-VESSELS OIL & GAS CO				RECEIVED: 12/17/81 JA: CO					
8211496	81-33	0500107649		103		GRANT PROPERTIES I LTD #1	WILDCAT	146.0	KOCH OIL CO
8211497	81-34	0501306035		103		VOAKE #1	WATTENBERG	255.0	PANHANDLE EASTERN
-W R MURFIN D/B/A MURFIN DRILLING CO				RECEIVED: 12/17/81 JA: CO					
8211446	81-68	0509906132		102-2		GERINGER #1-30	MCCLAVE	365.0	NUECES CO
**********									
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
**********									
-CRYSTAL OIL COMPANY				RECEIVED: 12/17/81 JA: MI					
8211427		2108734143		102-4		FULLER #2-16	MARATHON	18.3	CONSUMERS POWER C
8211428		2108734144		102-4		FULLER #3-16	MARATHON	204.4	CONSUMERS POWER C
8211431		2108734213		102-4		FULLER #5-16	MARATHON	109.5	CONSUMERS POWER C
8211429		2108734150		102-4		FULLER #6-16	MARATHON	13.5	CONSUMERS POWER C
8211430		2108734244		102-4		FULLER MCLAIN #1-16	MARATHON	109.5	CONSUMERS POWER C
8211432		2108734088		102-4		ROSS #1-18	MARATHON	18.3	CONSUMERS POWER C

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMOCO PRODUCTION CO						RECEIVED: 12/17/81 JA: NM			
8211439		3004508203		108		VALENCIA GAS COM B #1 (2ND FILING)	BASIN DAKOTA	21.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY						RECEIVED: 12/17/81 JA: NM			
8211437		3003900000		108-PB		SAN JUAN 27-5 UNIT #134	TOPOCITO PICTURED CLIFFS	0.0	NORTHWEST PIPELIN
-ENSERCH EXPLORATION INC						RECEIVED: 12/17/81 JA: NM			
8211443		3004120595		103		LA GRONE #1	PETERSON	58.0	TRANSWESTERN PIPE
-HNG OIL COMPANY						RECEIVED: 12/17/81 JA: NM			
8211438		3001500000		108		GOLDEN LANE 36 FEDERAL #1	GOLDEN LANE (ATOKA)	51.4	EL PASO NATURAL G
-RALPH NIX						RECEIVED: 12/17/81 JA: NM			
8211436		3000500000		102-2		O'BRIEN #1	BULLS EYE SAN ANDRES	10.0	MAPCO PRODUCTION
8211433		3000500000		102-2		SEANNA #1	BULLS EYE SAN ANDRES	10.0	MAPCO PRODUCTION
8211435		3000500000		102-2		UNION HAPPY #1	BULLS EYE SAN ANDRES	10.0	MAPCO PRODUCTION
8211434		3000500000		102-2		UNION HAPPY #2	BULLS EYE SAN ANDRES	10.0	MAPCO PRODUCTION
-TENNECO OIL COMPANY						RECEIVED: 12/17/81 JA: NM			
8211440		3004524437		103		MARQUIS G EATON A 1-E	BLANCO MESAVERDE	500.0	EL PASO NATURAL G
8211441		3004524432		103		SULLIVAN FRAME A 1E	UND/MESAVERDE	500.0	EL PASO NATURAL G
-TEXACO INC						RECEIVED: 12/17/81 JA: NM			
8211442		3002500000		103		CENTRAL VACUUM UNIT #152	VACUUM GRAYBURG - SAN AN	55.1	PHILLIPS PETROLEU
OKLAHOMA CORPORATION COMMISSION									
-AMERADA HESS CORPORATION						RECEIVED: 12/14/81 JA: OK			
8211297	11687	3515135240		108		ROBERT MORGAN UNIT #1	OAKDALE NW	9.7	MICHIGAN WISCONSI
-AMERICAN QUASAR PETROLEUM CO						RECEIVED: 12/14/81 JA: OK			
8211358	09545	3509520179		102-4		BEARD #1	SEC 3 T8S R4E	1825.0	TEXACO INC
8211418	14237	3509520256		102-4		KEETON #1-10	SEC 10 T8S R4E	0.0	TEXACO INC
-ANADARKO PRODUCTION COMPANY						RECEIVED: 12/14/81 JA: OK			
8211379	15114	3500722015		102-4		BLAKEMORE L #1	FLORIS	91.0	PANHANDLE EASTERN
8211377	15112	3500722105		102-2		PENNER B #1	FLORIS	110.0	PANHANDLE EASTERN
8211378	15113	3510722104		102-2		PLETT B #1	FLORIS	128.0	PANHANDLE EASTERN
8211399	11684	3502520453		103		S E BURTON #5-1A	S E BURTON	0.2	PHILLIPS PETROLEU
8211400	11685	3502520419		103		S E BURTON #5-4A	S E BURTON	53.0	PHILLIPS PETROLEU
-ANDOVER OIL COMPANY						RECEIVED: 12/14/81 JA: OK			
8211420	15218	3504321525		102-4		VANDERWORK #6-1		200.0	DELHI GAS PIPELIN
-ARCO OIL AND GAS COMPANY						RECEIVED: 12/14/81 JA: OK			
8211382	0093	3501300000		108-ER		CRAWFORD UNIT #1-35	DURANT EAST	36.5	LONE STAR GAS CO
8211408	11642	3512120749		103		QUAID UNIT #2	ASHLAND SOUTH	365.0	ARKANSAS LOUISIAN
-BETA OIL CO						RECEIVED: 12/14/81 JA: OK			
8211410	11651	3507300000		103		PERDUE #1-13	OMEGA WEST	100.0	WARREN PETROLEUM
-BOGERT OIL CO						RECEIVED: 12/14/81 JA: OK			
8211319	11755	3501121577		103		BERNIECE #1-35	SOONER TREND	150.0	PHILLIPS PETROLEU
-BROWN & BORELLI INC						RECEIVED: 12/14/81 JA: OK			
8211362	11259	3507322866		103		FORMAN #1	WEST CASHION	36.5	CONOCO INC
-BUD OIL CO						RECEIVED: 12/14/81 JA: OK			
8211394	11650	3513772262		103		SNOW #1		108.0	LONE STAR GAS CO
-BUNKER EXPLORATION CO						RECEIVED: 12/14/81 JA: OK			
8211376	15071	3513722733		102-2		LOVETT #1-31	SOUTHWEST MARLOW MARCHAN	500.0	ARKANSAS LOUISIAN
-BURKHART PETROLEUM CORP						RECEIVED: 12/14/81 JA: OK			
8211417	11697	3500722084		103		BOCKELMAN-STATE 1-32	MOCANE LAVERNE	400.0	EL PASO NATURAL G
-CHAMPLIN PETROLEUM COMPANY						RECEIVED: 12/14/81 JA: OK			

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8211364	11584	3510900000		108		C TEUSCHER #10	PEAVINE	4.0	CITIES SERVICE GA
8211365	11585	3505100000		108		I H KIEPE #2	WEST CHITWOOD	18.0	MOBIL OIL CORP
8211366	11588	3513700000		108		IRL NICHOLS #3	MILROY	1.0	AMINOIL USA INC
8211409	11576	3505100000		108		STILL-PETTIGREW UNIT #1	WEST CHITWOOD	10.0	MOBIL OIL CORP
-CHRISTIE-STEWART DRILLING CO				RECEIVED: 12/14/81 JA: OK					
8211373	11706	3504921491		103		HAMMER #1	ELMORE CITY EAST	0.0	WARREN PETROLEUM
-CITIES SERVICE COMPANY				RECEIVED: 12/14/81 JA: OK					
8211350	11817	3508700000		108		HARRISON A #2	N LINDSAY	8.0	WARREN PETROLEUM
8211351	11818	3504900000		108		HIGH B #1	S MAYSVILLE	7.0	WARREN PETROLEUM
8211315	11433	3513921424		102-4		INTERSTATE A #15 (CHEROKEE)	S RICHLAND CENTER AREA	756.0	NORTHERN NATURAL
8211339	15231	3513921492		102-4		INTERSTATE A #16	S RICHLAND CENTER AREA	82.5	NORTHERN NATURAL
-CLARK RESOURCES INC				RECEIVED: 12/14/81 JA: OK					
8211384	11727	3507322607		103		GLAZIER 12-1	SOONER TREND	150.0	CITIES SERVICE GA
8211385	11728	3507322816		103		L SNOWDEN 5-1	SOONER TREND	50.0	CITIES SERVICE GA
8211342	11694	3507323025		103		ZETA 20-1	SOONER TREND	28.0	PHILLIPS PETROLEU
-CLEMENTS ENERGY INC				RECEIVED: 12/14/81 JA: OK					
8211343	11707	3511921379		103		WESTFALL #1	S W PERKINS	180.0	CITIES SERVICE GA
-CLIFFORD RESOURCES INC				RECEIVED: 12/14/81 JA: OK					
8211386	11743	3509300000		103		MARGARITE #1-34	MENO	55.0	PANHANDLE EASTERN
-COBRA OIL AND GAS CORPORATION				RECEIVED: 12/14/81 JA: OK					
8211375	13547	3515321212		102-4		CLARK 14 #1		146.0	NORTHERN NATURAL
8211375	13547	3515321212		103		CLARK 14 #1		146.0	NORTHERN NATURAL
-CUMMINGS OIL CO				RECEIVED: 12/14/81 JA: OK					
8211314	11422	3507322771		103		SCHIMMELS #1-14	SOONER TREND	0.0	CITIES SERVICE GA
8211313	11421	3507322553		103		YOST #1-14	SOONER TREND	0.0	CITIES SERVICE GA
-DAMSON OIL CORPORATION				RECEIVED: 12/14/81 JA: OK					
8211426	11188	3504721191		108		COLLMAN #1-28	W DOUGLAS - SOONER TREND	0.0	ONG WESTERN INC
-DYCO PETROLEUM CORPORATION				RECEIVED: 12/14/81 JA: OK					
8211352	11831	3500720891		108		JONES #1	MOCANE NE	6.0	NORTHERN NATURAL
8211383	11695	3500920367		103		MERRICK #1-22	CARPENTER WEST	750.0	EL PASO NATURAL G
8211353	11833	3512120490		108		SANDERS #1-27	ULAN SOUTH	6.0	ARKANSAS LOUISIAN
8211396	11665	3500920370		103		SIMMONS #1-29	BERLIN NE	750.0	EL PASO NATURAL G
-ECC OIL CO				RECEIVED: 12/14/81 JA: OK					
8211298	11710	3514720936		108		REYNOLDS #1 SE/4 NE/4 20-25N-14E	OGLESBY GAS FIELD	3.0	OKAN GAS CO
-EL PASO NATURAL GAS COMPANY				RECEIVED: 12/14/81 JA: OK					
8211330	11753	3500920137		108		BINGHAM #3	ERICK SOUTH - BROWN DOLO	23.0	EL PASO NATURAL G
-ENNEX PRODUCTION COMPANY				RECEIVED: 12/14/81 JA: OK					
8211341		3509322071		103		E-D #1	FAIRVIEW	73.0	PHILLIPS PETROLEU
-EXXON CORPORATION				RECEIVED: 12/14/81 JA: OK					
8211422	15359	3512920521		107-DP		A B WITT #1	N SWEETWATER	296.0	EL PASO NATURAL G
-F C D LTD				RECEIVED: 12/14/81 JA: OK					
8211407	11641	3504722425		103		SIMPSON #1	N W GREEN VALLEY	1825.0	AMINOIL USA INC
-F C D OIL CORP				RECEIVED: 12/14/81 JA: OK					
8211412	11662	3507323089		103		FLYNN 1-1	N W LOVELL	127.8	EASON OIL CO
8211416	11686	3507322702		103		NEWERR 2-22	SOONER TREND	182.5	DALCO PETROLEUM I
-FARMERS INVESTMENTS INC				RECEIVED: 12/14/81 JA: OK					
8211321	10767	3502720484		103		BATES #1	N W NORMAN	250.0	SUN GAS CO
8211389	15131	3502720485		103		DAVID PRICE 7-17	NORTHWEST NORMAN	50.0	SUN GAS CO
-FLINT & ASSOCIATES				RECEIVED: 12/14/81 JA: OK					
8211337	11825	3512321111		103		BLAKE #3	WEST ALLEN	365.0	SUN GAS CO
8211336	11826	3512321117		103		BLAKE #4	WEST ALLEN	365.0	SUN GAS CO
8211309	11821	3512321001		103		LOMAN #1	WEST ALLEN	365.0	SUN OIL CO
8211310	11822	3512321153		103		LOMAN #2	WEST ALLEN	365.0	SUN GAS CO

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME
8211334	11823	3512321054		103		MAYBE #1
8211335	11824	3512321158		103		MAYBE #2
				RECEIVED: 12/14/81 JA: OK		
-GULF OIL CORPORATION						
8211381	15169	3507323136		102-2		BERNHARDT #1-19
8211391	15170	3501121643		102-2		DEAK ROHLING #2-26
8211296	10611	3501900000		108-ER		K & J MOORE #1
				RECEIVED: 12/14/81 JA: OK		
-HANOVER MANAGEMENT CO						
8211355	14566	3503900000		107-DP		GADSCO INC-FLOYD JONES "C" #1
				RECEIVED: 12/14/81 JA: OK		
-HOLD OIL CORP						
8211340	15234	3506120424		102-2		AUBREY PRINCE #1-12
				RECEIVED: 12/14/81 JA: OK		
-HOLDEN ENERGY CORP						
8211415	11670	3501922223		103		DAMRON #1
				RECEIVED: 12/14/81 JA: OK		
-HORIZON OIL & GAS CO OF TEXAS						
8211392	15171	3512920606		102-2		LACKEY-ALLEN #1-35
				RECEIVED: 12/14/81 JA: OK		
-JAMES W WISE						
8211316	11747	3510720936		103		CLINE #1
8211295	11712	3510720420		108		FULSOM #1
8211317	11748	3510720935		103		FULSOM #2
8211294	11711	3510700000		108		FULSOM #3
8211318	11749	3510720686		103		HENKE #1
				RECEIVED: 12/14/81 JA: OK		
-JONES & PELLOW OIL CO						
8211308	11815	3501900000		103		DUDLEY 27-1
				RECEIVED: 12/14/81 JA: OK		
-KAISER-FRANCIS OIL COMPANY						
8211424	10917	3505935188		108		BARNETT #1
				RECEIVED: 12/14/81 JA: OK		
-KWB OIL PROPERTY MANAGEMENT INC						
8211329	11746	3512120674		103		CHARITY #1
8211327	11744	3512120795		103		ROSS #1
8211356	15215	3512120795		103		ROSS #1
8211328	11745	3512120526		103		STUBBLEFIELD #1
				RECEIVED: 12/14/81 JA: OK		
-L & T OIL & GAS INC						
8211411	11659	3507323080		103		PATRICIA #1
				RECEIVED: 12/14/81 JA: OK		
-LADD PETROLEUM CORPORATION						
8211395	11660	3504722443		103		LEMKE #3
				RECEIVED: 12/14/81 JA: OK		
-LEAR PETROLEUM EXPLORATION INC						
8211397	11666	3504921431		103		HENSEN 1-27
				RECEIVED: 12/14/81 JA: OK		
-MACK OIL CO						
8211311	11335	3502700000		103		PREBLE #2
				RECEIVED: 12/14/81 JA: OK		
-MAGIC CIRCLE ENERGY CORP						
8211345	11771	3515121140		103		VERETA #1
8211346	11772	3515121139		103		VERLIN #1
				RECEIVED: 12/14/81 JA: OK		
-MAPCO PRODUCTION COMPANY						
8211388	14921	3501922352		102-4		JONES 2-18
8211388	14921	3501922352		103		JONES 2-18
				RECEIVED: 12/14/81 JA: OK		
-MOBIL OIL CORP						
8211367	11610	3504900000		108		EMMA B WILSON #4
				RECEIVED: 12/14/81 JA: OK		
-MONSANTO COMPANY						
8211425	10941	3504320449		108-ER		BASKETT #1
				RECEIVED: 12/14/81 JA: OK		
-MORGAN & STEINERT INC						
8211302	11724	3507323113		103		PACULA #1
8211301	11723	3510321342		103		STANLEY #1
8211303	11725	3507300000		103		WANDA #1
				RECEIVED: 12/14/81 JA: OK		
-MRT EXPLORATION COMPANY						
8211419	14977	3500920343		102-4		BOYD L ZEECK #1

FIELD NAME	PROD	PURCHASER
WEST ALLEN	365.0	SUN GAS CO
WEST ALLEN	365.0	SUN GAS CO
OMEGA SOUTH	150.0	
OMEGA SOUTH	100.0	
SPRINGER	0.0	UNION OIL CO OF C
	1460.0	NATURAL GAS PIPEL
BROOKEN	400.0	ARKANSAS LOUISIAN
JOINER CITY	65.0	AMINOIL USA INC
	730.0	MICHIGAN WISCONSI
KEATON	36.0	PHILLIPS PETROLEU
KEATON	15.0	PHILLIPS PETROLEU
KEATON	36.0	PHILLIPS PETROLEU
KEATON	15.0	PHILLIPS PETROLEU
KEATON	36.0	PHILLIPS PETROLEU
N ORR	36.5	AMINOIL USA INC
CLARK CREEK EAST	25.0	NATURAL GAS COMPR
S ULAN	21.0	ARKANSAS LOUISIAN
S ULAN	100.0	ARKANSAS LOUISIAN
S ULAN	100.0	ARKANSAS LOUISIAN
S ULAN	65.0	TRANSOK PIPELINE
SOONER TREND	288.0	
ENID NORTH EAST	65.7	CITIES SERVICE GA
TANNER	300.0	WARREN PETROLEUM
	15.0	SUN GAS CO
WEST ALINE	0.0	
WEST ALINE	200.0	OKLAHOMA NATURAL
WEST HEWITT	2.0	AMINOIL USA INC
WEST HEWITT	2.0	AMINOIL USA INC
GOLDEN TREND	11.7	WARREN PETROLEUM
SOUTH VICI	29.0	TRANSWESTERN PIPE
SOONER TREND	120.0	ONG WESTERN INC
W PERRY	120.0	AMINOIL USA INC
SOONER TREND	120.0	ONG WESTERN INC
SOUTHWEST NEW LIBERTY	73.0	MISSISSIPPI RIVER

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-NATIONAL OIL COMPANY						RECEIVED: 12/14/81 JA: OK			
8211347	11784	3509321688		103		WAHL #093-59219	RINGWOOD	365.0	DELHI GAS PIPELIN
-NFC PETROLEUM CORP						RECEIVED: 12/14/81 JA: OK			
8211331	11760	3515120868		103		DIETZ #6-30	OAKDALE	54.0	AMINOIL USA INC
8211344	11763	3515120766		103		DIETZ 3-30	OAKDALE	37.4	AMINOIL USA INC
8211333	11762	3515120800		103		DIETZ 4-30	OAKDALE	58.3	AMINOIL USA INC
8211332	11761	3515120867		103		DIETZ 5-30	OAKDALE	37.4	AMINOIL USA INC
-NRM PETROLEUM CORPORATION						RECEIVED: 12/14/81 JA: OK			
8211423	09751	3500721799		103		GIFT #1	UNDESIGNATED	275.0	NATURAL GAS PIPEL
-OLEUM INC						RECEIVED: 12/14/81 JA: OK			
8211371	11654	3501922138		103		AUDRY WILLIAMS #2	JOINER CITY	25.0	
8211370	11653	3501922235		103		MAUDE ROLAND #3	JOINER CITY	28.0	
8211372	11655	3501922254		103		W W WOODWORTH #2	JOINER CITY	15.0	
-P-T LTD 80						RECEIVED: 12/14/81 JA: OK			
8211361	11165	3504722396		103		HANE 14-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
8211414	11669	3504722397		103		HERRIN 30-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
8211413	11668	3504722392		103		LAMERTON 28-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
8211360	11158	3504722397		103		PETERMAN 22-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
-PATRICK PETROLEUM CORP (MI)						RECEIVED: 12/14/81 JA: OK			
8211380	15141	3512920583		102-2		TAYLOR #1-34	W REYDON	0.0	
-PETROLEUM CORP OF DELAWARE						RECEIVED: 12/14/81 JA: OK			
8211300	11716	3507322864		103		STARKEY #9-3 WELL	SOONER TREND	18.3	CITIES SERVICE GA
-PETROLEUM INC						RECEIVED: 12/14/81 JA: OK			
8211405	11630	3513900000		108		GRAY UNIT #1	GOOCH	13.0	KANSAS NEBRASKA N
-PHILLIPS PETROLEUM COMPANY						RECEIVED: 12/14/81 JA: OK			
8211369	11648	3501721877		103		KREMEIER B #1	NORTH CONCHO	0.0	ONG
8211393	11647	3501721284		108		ZUM MALLEN C #1	WEST PIEDMONT	9.0	PANHANDLE EASTERN
-RAMBLER OIL CO						RECEIVED: 12/14/81 JA: OK			
8211359	10777	3501121009		103		HILDA HOUSTON #1	ELM GROVE	0.0	TRANSOK PIPELINE
-S K TUTHILL & B J BARBEE						RECEIVED: 12/14/81 JA: OK			
8211401	11688	3515121143		103		BARNES 1-8	NORTH CAMPBELL	220.0	PANHANDLE EASTERN
8211403	11693	3515321195		103		BOOTH HEMENWAY #1-18	SOUTH FREEDOM	110.0	PANHANDLE EASTERN
8211363	11570	3515120747		108		MILLER #1-16	EAST BRACE	6.9	PANHANDLE EASTERN
8211402	11690	3515321188		103		SIMPSON WALKER #1-12	SOUTH FREEDOM	17.0	PANHANDLE EASTERN
8211404	11626	3515320926		108		WALKER #1-22	SW FREEDOM	19.6	PANHANDLE EASTERN
8211368	11623	3515320898		108		WALKER #1-23	SW FREEDOM	6.2	PANHANDLE EASTERN
-SAMSON RESOURCES COMPANY						RECEIVED: 12/14/81 JA: OK			
8211338	13277	3504921517		103		A C WADE UNIT #1	SOUTHEAST ELMORE CITY	9.1	AMINOIL USA INC
8211374	11793	3507300000		108		VIETH #1	OKARCHE	10.3	DELHI GAS PIPELIN
-SILAS RICHARDSON						RECEIVED: 12/14/81 JA: OK			
8211312	11346	3511123026		103		RICHARDSON #3	HECTOR	250.0	
-SOUTHWEST PETROCHEM INC						RECEIVED: 12/14/81 JA: OK			
8211421	15219	3503920516		102-2		G KLEMME 2-18	FOSS RESERVOIR SECTION 1	365.0	ONG WESTERN INC
-ST JOE PETROLEUM (US) CORP						RECEIVED: 12/14/81 JA: OK			
8211320	11758	3510332063		103		LOEFFELHOLZ #1	UNDESIGNATED	32.0	ARCO OIL & GAS CO
8211349	11788	3510300000		103		VCULEK #1		31.0	ARCO OIL & GAS CO
-TENNECO OIL COMPANY						RECEIVED: 12/14/81 JA: OK			
8211357	5244	3500721696		103		CARLISLE #16-22 (CHESTER)	MOCANE-LAVERNE	0.0	COLORADO INTERSTA
-TEXACO INC						RECEIVED: 12/14/81 JA: OK			
8211299	11713	3504700000		108		O TAGGERT #1	SOONER TREND	8.4	EXXON
8211398	11678	3507323006		103		S W TITLE & TRUST B #1	OKARCHE N E	50.0	CONOCO INC
-THE WIL-MC OIL CORP						RECEIVED: 12/14/81 JA: OK			
8211390	15147	3508321860		102-4		TAYLOR #1	SOUTH MULHALL	63.0	AMINOIL USA INC

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-W B WILSON						RECEIVED: 12/14/81 JA: OK			
8211325	11777	3507122183		103		STATE 13 #2	UNDESIGNATED	219.0	CHASE GATHERING S
8211307	11782	3507122180		103		STATE 13 #3	UNDESIGNATED	273.7	CHASE GATHERING S
8211306	11781	3507122196		103		STATE 13 #4	UNDESIGNATED	7.3	CHASE GATHERING S
8211305	11780	3507122182		103		STATE 13 #5	UNDESIGNATED	182.5	CHASE GATHERING S
8211304	11779	3507122197		103		STATE 13 #6	UNDESIGNATED	27.4	CHASE GATHERING S
8211326	11778	3507122181		103		STATE 13 #7	UNDESIGNATED	7.3	CHASE GATHERING S
8211324	11776	3507122316		103		STATE 36 #1	UNDESIGNATED	18.2	CHASE GATHERING S
8211323	11775	3507122258		103		STATE 36 #2	UNDESIGNATED	36.5	CHASE GATHERING S
8211322	11774	3507122284		103		STATE 36 #6	UNDESIGNATED	9.2	CHASE GATHERING S
-WESLEY WEBBER						RECEIVED: 12/14/81 JA: OK			
8211348	11785	3513722712		103		SPEARS B #16	SHO-VEL-TUM	18.0	GETTY OIL CO
-WHEATLAND OIL CO						RECEIVED: 12/14/81 JA: OK			
8211387	14913	3507300000		102-4		LANE #1	W LACY	84.7	PHILLIPS PETROLEU
-WILLIS EXPLORATION INC						RECEIVED: 12/14/81 JA: OK			
8211406	11633	3501721807		103		PATIENCE #1	NORTHEAST MUSTANG	540.0	MOBIL OIL CORP
-WOOD ENTERPRISES INC						RECEIVED: 12/04/81 JA: OK			
8211293	14853	3511900000		102-4		MITTIE ELLIOTT #1 (119-62002)	MARKHAM	13.0	PARKS ENERGY INVE
8211293	14853	3511900000		103		MITTIE ELLIOTT #1 (119-62002)	MARKHAM	13.0	PARKS ENERGY INVE
-WOODS PETROLEUM CORP						RECEIVED: 12/14/81 JA: OK			
8211354	13850	3504921536		103		MCDANIEL #15-1	E ANTOICH	73.0	
**********									
** U.S. GEOLOGICAL SURVEY - ALBUQUERQUE,NM									
**********									
-CAULKINS OIL COMPANY						RECEIVED: 12/21/81 JA: NM 4			
8211513	NM1737-80-A	3003906556	D	103		BREECH A 136 E	OTERO CHACRA	30.0	GAS CO OF NEW MEX
8211514	NM1737-80-B	3003906556	D	103		BREECH A 136 E	BLANCO MESA VERDE	30.0	GAS CO OF NEW MEX
8211515	NM1737-80-C	3003906556	D	103		BREECH A 136 E	BASIN DAKOTA	30.0	GAS CO OF NEW MEX
8211519	NM1740-80-A	3003906631	D	103		BREECH A 175 E	OTERO CHACRA	30.0	GAS CO OF NEW MEX
8211520	NM1740-80-B	3003906631	D	103		BREECH A 175 E	BLANCO MESA VERDE	30.0	GAS CO OF NEW MEX
8211521	NM1740-80-C	3003906631	D	103		BREECH A 175 E	BASIN DAKOTA	30.0	GAS CO OF NEW MEX
8211510	NM1736-80-A	3003906582	D	103		BREECH A 204 E	OTERO CHACRA	30.0	GAS CO OF NEW MEX
8211511	NM1736-80-B	3003906582	D	103		BREECH A 204 E	BLANCO MESA VERDE	30.0	GAS CO OF NEW MEX
8211512	NM1736-80-C	3003906582	D	103		BREECH A 204 E	BASIN DAKOTA	30.0	GAS CO OF NEW MEX
8211522	NM1742-80-A	3003906697	D	103		BREECH E 583 M	OTERO CHACRA	30.0	GAS CO OF NEW MEX
8211523	NM1742-80-B	3003906697	D	103		BREECH E 583 M	BLANCO MESA VERDE	30.0	GAS CO OF NEW MEX
8211524	NM1742-80-C	3003906697	D	103		BREECH E 583 M	BASIN DAKOTA	30.0	GAS CO OF NEW MEX
8211516	NM1738-80-A	3003906694	D	103		BREECH E 68 E	OTERO CHACRA	30.0	GAS CO OF NEW MEX
8211517	NM1738-80-B	3003906694	D	103		BREECH E 68 E	BLANCO MESA VERDE	30.0	GAS CO OF NEW MEX
8211518	NM1738-80-C	3003906694	D	103		BREECH E 68 E	BASIN DAKOTA	30.0	GAS CO OF NEW MEX

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-1640 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 19, 1982.

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-I R D CORP						RECEIVED: 09/11/81 JA: OH			
8211606		3415521711		103		SULEK #1		200.0	
8211606		3415521711		107	TF	SULEK #1		200.0	
-JOHN C MASON						RECEIVED: 09/11/81 JA: OH			
8211600		3407523131		107	TF	JOHN HIPP 2A		15.0	COLUMBIA GAS TRAN
-L & M OPERATING INC						RECEIVED: 09/11/81 JA: OH			
8211602		3416725276		107	DV	WILLIAM CISLER #1-A		12.8	COLUMBIA GAS TRAN
-L & M PETROLEUM INC						RECEIVED: 09/11/81 JA: OH			
8211604		3412725095		103		ESSINGTON/LEWIS-PEABODY/CHRISTY #2		9.5	FORAKER GAS CO IN
8211604		3412725095		107	TF	ESSINGTON/LEWIS-PEABODY/CHRISTY #2		9.5	FORAKER GAS CO IN
8211605		3412725095		103		ESSINGTON/LEWIS-PEABODY/CHRISTY #2		9.5	FORAKER GAS CO IN
8211605		3412725095		107	TF	ESSINGTON/LEWIS-PEABODY/CHRISTY #2		9.5	FORAKER GAS CO IN
8211603		3412725096		103		ESSINGTON/LEWIS-PEABODY/CHRISTY #3		9.0	FORAKER GAS CO IN
8211603		3412725096		107	TF	ESSINGTON/LEWIS-PEABODY/CHRISTY #3		9.0	FORAKER GAS CO IN
-NATIONAL PETROLEUM CORP						RECEIVED: 09/11/81 JA: OH			
8211592		3411122149		107	DV	E ACKERMAN #1		15.0	TEXAS EASTERN TRA
-NOBLE OIL CORP						RECEIVED: 09/11/81 JA: OH			
8211588		3413322564		107	TF	SMITH #1		20.0	GENERAL ELECTRIC
8211589		3413322563		107	TF	SMITH #2		20.0	GENERAL ELECTRIC
8211591		3413322489		107	TF	STEGH-BROWN #1		20.0	GENERAL ELECTRIC
8211590		3413322490		107	TF	STEGH-BROWN #2		20.0	GENERAL ELECTRIC
-THE MUTUAL OIL & GAS COMPANY						RECEIVED: 09/11/81 JA: OH			
8211596		3411122385		107	DV	C BURKHART #2-M		35.0	COLUMBIA GAS TRAN
8211599		3411122192		107	DV	C G BAKER #2-M		15.0	COLUMBIA GAS TRAN
8211598		3411122196		107	DV	J MALLETT #1-M		10.0	COLUMBIA GAS TRAN
8211597		3411122382		107	DV	J MALLETT #2-M		10.0	COLUMBIA GAS TRAN
8211594		3413322451		107	TF	PAUL #1		10.0	
8211595		3411122467		107	DV	R MALLETT #1-M-A		10.0	COLUMBIA GAS TRAN
8211593		3413322452		107	TF	TOMKO #1		10.0	
-W J LYDIC INC						RECEIVED: 09/11/81 JA: OH			
8211601		3411122009		107	DV	CONLEY #1		108.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-AMOCO PRODUCTION CO						RECEIVED: 12/17/81 JA: OK			
8211681	11443	3509300018		108		A M HARRIS #1	CEDARDALE NE	20.0	MICHIGAN-WISCONSI
-ANDOVER OIL COMPANY						RECEIVED: 12/17/81 JA: OK			
8211652	15342	3501121579		102	2	ROTHER #2-3		180.0	DELHI GAS PIPELIN
-ARBOR PETROLEUM CORP						RECEIVED: 12/17/81 JA: OK			
8211629	11847	3505920901		103		ADKINS #1	NORTH LOVEDALE	36.5	DELHI GAS PIPELIN
8211628	11846	3505920990		103		ADKINS #2	NORTH LOVEDALE	36.5	DELHI GAS PIPELIN

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME
-BARUCH-FOSTER CORP						RECEIVED: 12/17/81 JA: OK
8211683	11863	3508120767		108		B F COOK "B" #1
-BLAIK OIL COMPANY						RECEIVED: 12/17/81 JA: OK
8211705	11811	3504722450		103		ANTON #2
-BONANZA PETROLEUM INC						RECEIVED: 12/17/81 JA: OK
8211619	11814	3500721921		103		TERREL #1
-CAYMAN EXPLORATION CORP						RECEIVED: 12/17/81 JA: OK
8211647	11871	3500320789		103		WALLACE #1
-CHAMPLIN PETROLEUM COMPANY						RECEIVED: 12/17/81 JA: OK
8211684	11877	3507300000		108		GAYLEN JONES #1
-CLARK RESOURCES INC						RECEIVED: 12/17/81 JA: OK
8211698	11726	3507323098		103		EVA 20-1
-CONTINENTAL RESOURCES CORP						RECEIVED: 12/17/81 JA: OK
8211694	11767	3509300000		103		GOULD #1
-CUMMINGS OIL CO						RECEIVED: 12/17/81 JA: OK
8211691	11423	3507322913		103		WENDT "A" #1-15
-DIAMOND SHAMROCK CORPORATION						RECEIVED: 12/17/81 JA: OK
8211608	14690	3512920617		102-2		H C QUATTLEBAUM #1
-EL PASO NATURAL GAS COMPANY						RECEIVED: 12/17/81 JA: OK
8211687	15461	3500920412		107-DP		KENT #2
8211688	15536	3512920591		107-DP		SANDUSKY #1
-FLINT & ASSOCIATES						RECEIVED: 12/17/81 JA: OK
8211659	11721	3512321087		103		BLAKE #2 WELL
-FOSSIL OIL & GAS INC						RECEIVED: 12/17/81 JA: OK
8211621	11834	3507322821		103		SMITH #2-23
-GEC PRODUCTION CO						RECEIVED: 12/17/81 JA: OK
8211682	11309	3511122660		103		MILLER #2
-GEODYNE RESOURCES INC						RECEIVED: 12/17/81 JA: OK
8211637	11812	3507322029		103		FOREMAN #1
-GEORGE E FEARS						RECEIVED: 12/17/81 JA: OK
8211690	09951	3508321249		103		ACTON B-1
8211689	09948	3508321151		103		CLARK #1
8211631	09905	3508321083		103		COMBEST #1
-GIANT PETROLEUM CORPORATION						RECEIVED: 12/17/81 JA: OK
8211654	11481	3511900000		103		WEBB #1
-GULFSTREAM PETROLEUM CORP						RECEIVED: 12/17/81 JA: OK
8211657	11705	3509322121		103		GLADYS MARIE CRAIG #1-14
8211640	11836	3510321278		103		ROSA SEEGERS #1-11
-HELMERICH & PAYNE INC						RECEIVED: 12/17/81 JA: OK
8211664	15207	3512920622		102-2		LOVELACE #1-11
-HENRY H GUNGOLL ASSOCIATES						RECEIVED: 12/17/81 JA: OK
8211641	11857	3504722332		103		KROCKER 1-23
-HOOVER & BRACKEN ENERGIES						RECEIVED: 12/17/81 JA: OK
8211651	15252	3503920470		102-2		IRENE JONES #1-31
-IMPERIAL OIL COMPANY						RECEIVED: 12/17/81 JA: OK
8211662	15154	3515120816		102-4		BOUZIDEN #1-23
8211663	15155	3515121067		102-4		WIMMER #1-15
-INDIAN WELLS OIL CO						RECEIVED: 12/17/81 JA: OK
8211617	15327	3505320718		102-4		BRAMLETT 1-19
8211615	15325	3505300000		102-4		BRAMLETT 19-2
8211614	15324	3505300000		102-4		HAJEK #2
8211613	15323	3505300000		102-4		HAJEK #3
8211616	15326	3505300000		102-4		HAJEK #4

FIELD NAME	PROD	PURCHASER
RAVENDALE	2.0	CITIES SERVICE GA
SOONER TREND	27.0	PHILLIPS PETROLEU
UNALLOCATED	365.0	NORTHERN NATURAL
SOONER TREND	88.0	PANHANDLE EASTERN
SOONER TREND	11.0	PHILLIPS PETROLEU
SOONER TREND	25.9	EASON OIL CO
CHEYENNE VALLEY	0.0	PHILLIPS PETROLEU
SOONER TREND	0.0	CITIES SERVICE GA
LEEDY SW	1085.0	TRANSWESTERN PIPE
BERLIN E ATOKA	124.0	EL PASO NATURAL G
UNDESIGNATED MORROW UPPE	275.0	EL PASO NATURAL G
WEST ALLEN	3.7	SUN GAS CO
SOUTH LOYAL	140.0	CITIES SERVICE GA
BEGGS DIST	0.0	PHILLIPS PETROLEU
CASHION NORTH	36.0	CONOCO INC
	0.0	EASON OIL CO
	0.0	EASON OIL CO
	0.0	AMINOIL USA INC
STILLWATER	156.0	SUN GAS CO
UNALLOCATED POOL	0.0	PIONEER GAS PRODU
UNALLOCATED POOL	0.0	ARCO OIL & GAS CO
WILDCAT	365.0	MICHIGAN WISCONSI
SOONER TREND	0.5	
EAST BUTLER	18.3	
N E FALKNER	34.0	PANHANDLE EASTERN
N E FALKNER	50.0	PANHANDLE EASTERN
SOUTHWEST RENFROW	100.0	CRA INC
SOUTHWEST RENFROW	100.0	CRA INC
SOUTHWEST RENFROW	200.0	CRA INC
SOUTHWEST RENFROW	200.0	CRA INC
SOUTHWEST RENFROW	200.0	CRA INC

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8211618	15328	3505320720		102-4		PETRIK #2	SOUTHWEST RENFROW	100.0	CRA INC
-JONES EXPLORATION CO				RECEIVED: 12/17/81 JA: OK					
8211642	11866	3508520395		103		PEERY #1		36.5	AMINOIL USA INC
-KAISER-FRANCIS OIL COMPANY				RECEIVED: 12/17/81 JA: OK					
8211676	11540	3504700000		108		ALBERT #1	SPRING VALLEY	1.5	GRACE PETROLEUM C
8211678	11551	3504700000		108		ELSIE #1	SPRING VALLEY	18.2	GRACE PETROLEUM C
8211680	11553	3504700000		108		FISCHABER #2	SPRING VALLEY	10.1	GRACE PETROLEUM C
8211679	11552	3504720863		108		SELIX #1-5	SOUTH HUNTER	7.7	GRACE PETROLEUM C
8211677	11550	3504720878		108		SEMRAD #1-24	FAIRMONT	8.5	GRACE PETROLEUM C
8211630	13063	3505121017		103		SPURLIN #1	N CHICKASHA	500.0	
-L D WARD				RECEIVED: 12/17/81 JA: OK					
8211660	11750	3501121548		103		WEBER FREED #1	N E OKEENE	340.0	TRANSOK PIPELINE
-LEBEN OIL CORP				RECEIVED: 11/02/81 JA: OK					
8211607	01937	3515320185		108		PHILLIPS #1-7	N W SHARON	19.0	NORTHERN NATURAL
-LEWIS EXPLORATION INC				RECEIVED: 12/17/81 JA: OK					
8211643	11867	3507100000		103		CHRISTENSEN #1-8	UNNAMED	11.0	CITIES SERVICE GA
8211644	11868	3507122007		103		CHRISTENSEN #2	UNNAMED	30.0	CITIES SERVICE GA
8211645	11869	3507100000		103		CHRISTENSEN #3	UNNAMED	11.0	CITIES SERVICE GA
-LINCOLN ROCK CORP				RECEIVED: 12/17/81 JA: OK					
8211704	11807	3508520436		103		WESTHEIMER #2	NORTHEAST MARIETTA	20.0	CIMARRON TRANSMIS
-M M RESOURCES INC				RECEIVED: 12/17/81 JA: OK					
8211646	11870	3510321181		103		WILSON #1		0.0	AMINOIL USA INC
-MACK OIL CO				RECEIVED: 12/17/81 JA: OK					
8211666	11334	3502700000		103		HUCKABEE #1		8.0	SUN GAS CO
-MAGIC CIRCLE ENERGY CORP				RECEIVED: 12/17/81 JA: OK					
8211702	11770	3515121084		103		IRA CURRY #1	WEST ALINE	168.0	
8211701	11769	3501121533		103		MCCLUNG #1	STAR FIELD	168.0	
8211648	11876	3515121123		103		ZACHER #1	WEST ALINE	168.0	OKLAHOMA NATURAL
-MAPCO PRODUCTION COMPANY				RECEIVED: 12/17/81 JA: OK					
8211609	14920	3501922220		102-4		BRAY #1-17	WEST HEWITT	3.0	AMINOIL USA INC
8211610	15119	3501922309		102-4		WARD #1-19	WEST HEWITT	0.0	AMINOIL USA INC
8211611	15189	3501922354		102-4		WESTHEIMER-NEUSTADT D 1-17	WEST HEWITT	1.0	AMINOIL USA INC
-MARLIN OIL CORPORATION				RECEIVED: 12/17/81 JA: OK					
8211661	13782	3505921002		102-4		ROBERTSON #1	MOCANE-LAVERNE	365.0	TRANSWESTERN PIPE
8211661	13782	3505921002		103		ROBERTSON #1	MOCANE-LAVERNE	365.0	TRANSWESTERN PIPE
-MIN-TEX OIL CORP				RECEIVED: 12/17/81 JA: OK					
8211696	11702	3508321468		103		FUKSA #2	SOONER TREND	37.0	EASON OIL CO
8211695	11810	3508320896		103		GOODVIN #1	SOONER TREND	1.0	EASON OIL CO
-NATOMAS NORTH AMERICA INC				RECEIVED: 12/17/81 JA: OK					
8211612	15312	3512920598		102-2		SIMMONS #2	CARPENTER WEST	694.0	MICHIGAN-WISCONSI
-P-T LTD 80				RECEIVED: 12/17/81 JA: OK					
8211692	11466	3504722178		103		MARKES 2-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
-P-T LTD 81				RECEIVED: 12/17/81 JA: OK					
8211634	11464	3504722522		103		ESTILL 31-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
8211633	11461	3504722578		103		FUKSA-STUTZ 25-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
-PCX CORP				RECEIVED: 12/17/81 JA: OK					
8211693	11542	3505320697		103		LE FORCE #1	N E VINING	678.0	CITIES SERVICE GA
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 12/17/81 JA: OK					
8211703	11787	3507322928		103		ERNEST A #1	SOUTH EAST ALTONA	0.0	
-POST PETROLEUM COMPANY INC				RECEIVED: 12/17/81 JA: OK					
8211655	11604	3513921410		103		THRASHER #1	GUYMON-HUGOTON	0.0	
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED: 12/17/81 JA: OK					
8211622	11835	3501721907		103		ALICE SUE #1-11	YUKON	150.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-RAMBLER OIL CO						RECEIVED: 12/17/81 JA: OK			
8211685	13182	3509321328		102-2		ANNA DURST #1-15	N W TRIVOLI	0.0	DELHI GAS PIPELIN
8211686	13184	3504921609		102-4		GREEN #1	S PAOLI	0.0	
-RATLIFF EXPLORATION CO						RECEIVED: 12/17/81 JA: OK			
8211653	11440	3509322083		103		HALL #1	SOUTH HALL	20.0	AMINOIL USA INC
-RED EAGLE OIL CO						RECEIVED: 12/17/81 JA: OK			
8211699	11756	3509322112		103		THOMAS #1	CHEYENNE VALLEY	110.0	AMINOIL USA INC
8211700	11757	3509322218		103		THOMAS #2	CHEYENNE VALLEY	110.0	AMINOIL USA INC
-S K TUTHILL & B J BARBEE						RECEIVED: 12/17/81 JA: OK			
8211658	11720	3515120888		108		TATRO #1-21	LOOKOUT PROSP	131.0	NORTHERN NATURAL
-SAMEDAN OIL CORPORATION						RECEIVED: 12/17/81 JA: OK			
8211650	15249	3508520435		102-2		MOXLEY #1		30.0	AMINOIL USA INC
8211649	15247	3508520535		102-2		MOXLEY #2-9		30.0	AMINOIL USA INC
-SAMSON RESOURCES COMPANY						RECEIVED: 12/17/81 JA: OK			
8211635	11751	3500722027		103		RIGG #1-CHESTER	MOCANE-LAVERNE	164.3	NORTHERN NATURAL
8211636	11752	3500722027		103		RIGG #1-MORROW	MOCANE-LAVERNE	54.8	NORTHERN NATURAL
-SCHICK OIL & GAS INC						RECEIVED: 12/17/81 JA: OK			
*8211656	11701	3509322074		103		MONTGOMERY 6-1	RINGWOOD	520.0	PIONEER GAS PRODU
-SENECA OIL COMPANY						RECEIVED: 12/17/81 JA: OK			
8211665	15223	3509322234		102-2		EUBANK #1-19	DANE	730.0	PANHANDLE EASTERN
-SOUTHLAND ROYALTY CO						RECEIVED: 12/17/81 JA: OK			
8211624	11840	3501721854		103		JELINEK #1-27	S YUKON	55.0	CONOCO INC
8211625	11841	3501721855		103		JELINEK #2-27	YUKON	73.0	CONOCO INC
8211623	11839	3501721894		103		PHILLIPS #1-27	YUKON	55.0	CONOCO INC
8211626	11842	3509322062		103		WOODRING #2-31	ORION	75.0	PHILLIPS PETROLEU
8211627	11843	3509322136		103		WOODRING #3-31	ORION	30.0	PHILLIPS PETROLEU
-SWAN OIL CO						RECEIVED: 12/17/81 JA: OK			
8211672	11415	3501900000		108		BROOKS 1	GRAHAM	1.8	MOBIL OIL CORP
8211673	11416	3501900000		108		BROOKS 1A	GRAHAM	1.8	MOBIL OIL CORP
8211668	11411	3501900000		108		BROOKS 10	GRAHAM	1.8	MOBIL OIL CORP
8211675	11418	3501900000		108		BROOKS 12	GRAHAM	1.8	MOBIL OIL CORP
8211674	11417	3501900000		108		BROOKS 2	GRAHAM	1.8	MOBIL OIL CORP
8211669	11412	3501900000		108		BROOKS 2A	GRAHAM	1.8	MOBIL OIL CORP
8211670	11413	3501900000		108		BROOKS 3	GRAHAM	1.8	MOBIL OIL CORP
8211671	11414	3501900000		108		BROOKS 3A	GRAHAM	1.8	MOBIL OIL CORP
8211667	11410	3501900000		108		BROOKS 9	GRAHAM	1.8	MOBIL OIL CORP
-TEXAS OIL & GAS CORP						RECEIVED: 12/17/81 JA: OK			
8211632	10146	3513921189		108		RANDLES #1	N W DOMBEY	12.0	PANHANDLE EASTERN
8211697	11704	3500722093		103		TRETBAR #1	E LORENA	170.0	
-TEXOMA RESOURCES INC						RECEIVED: 12/17/81 JA: OK			
8211706	11829	3508321657		103		EMMERICH #1-31	SOONER TREND	100.0	CONOCO INC
8211639	11830	3507323061		103		HENLEY #1-12	SOONER TREND	75.0	CONOCO INC
8211638	11828	3508321658		103		POLLARD #1-31	SOONER TREND	100.0	CONOCO INC
-WALLACE OIL & GAS INC						RECEIVED: 12/17/81 JA: OK			
8211620	11816	3502520411		103		WELLS #2	SOUTHEAST GRIGGS	200.6	TRANSWESTERN PIPE
**********									
** U.S. GEOLOGICAL SURVEY - ALBUQUERQUE,NM									
**********									
-AMERICAN QUASAR PETROLEUM CO OF NEW						RECEIVED: 12/17/81 JA: NM 4			
8211551	NM-1438-81	3002525530		108		BRINNINSTOOL #2	BRINNINSTOOL (MORROW)	27.7	EL PASO NATURAL G
-BCO INC						RECEIVED: 12/17/81 JA: NM 4			
8211578	NM 1508-81	3003922349		103		DUNN #3	LYBROOK GALLUP AND UND G	40.0	EL PASO NATURAL G
-BLACKWOOD & NICHOLS CO LTD						RECEIVED: 12/17/81 JA: NM 4			

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8211586	NM1521-81	3004525007		103		NORTHEAST BLANCO UNIT #68	BLANCO MESAVERDE A-35-31	110.0	EL PASO NATURAL G
-COTTON PETROLEUM CORPORATION				RECEIVED: 12/17/81 JA: NM 4					
8211552	NM-1441-81	3003921271		108		APACHE #17	SOUTH BLANCO	16.0	NORTHWEST PIPELIN
8211541	NM-1411-81	3003920181		108		CINCO DIABLOS #12	BALLARD PICTURED CLIFFS	10.0	NORTHWEST PIPELIN
8211540	NM-1410-81	3003900000		108		CINCO DIABLOS #13	SOUTH BLANCO	4.0	NORTHWEST PIPELIN
8211542	NM-1412-81	3003920202		108		CINCO DIABLOS #14	BALLARD PICTURED CLIFFS	2.0	NORTHWEST PIPELIN
-DAVID FASKEN				RECEIVED: 12/17/81 JA: NM 4					
8211525	NM0020-81-ER	3001520692		108-ER		ARCO 10 FEDERAL #2	BOYD MORROW	0.0	TRANSWESTERN P L
-EL PASO NATURAL GAS COMPANY				RECEIVED: 12/17/81 JA: NM 4					
8211565	NM-1493-81	3004500000		108		BLANCO #15 MV & PC	BLANCO - MESA VERDE & SO	19.0	EL PASO NATURAL G
8211554	NM-1447-81	3003920232		108		CANYON LARGO UNIT NP #146	BALLARD - PICTURED CLIFF	18.0	EL PASO NATURAL G
8211536	NM-1309-81	3004521809		108		HUEREANO UNIT #265 GL & DK	ANGELS PEAK GAL GAS - BA	21.0	EL PASO NATURAL G
8211559	NM-1455-81	3004506400		108		HUERFANITO UNIT #56	BLANCO SOUTH - PICTURED	16.0	EL PASO NATURAL G
8211567	NM-1495-81	3004521227		108		HUERFANO UNIT #239	ANGELS PEAK - GALLUP GAS	18.0	EL PASO NATURAL G
8211568	NM-1497-81	3004521411		108		HUERFANO UNIT #259	BASIN - DAKOTA	10.0	EL PASO NATURAL G
8211569	NM-1498-81	3004521139		108		HUGHES A #8	BLANCO - PICTURED CLIFFS	20.0	EL PASO NATURAL G
8211556	NM-1450-81	3004505816		108		MCCONNELL #2	BALLARD - PICTURED CLIFF	22.0	EL PASO NATURAL G
8211555	NM-1448-81	3003906332		108		QUANTIUS #3	BLANCO SOUTH PICTURED CL	20.0	EL PASO NATURAL G
8211566	NM-1494-81	3003920961		108		SAN JUAN 28-7 UNIT #201 CH & PC	LARGO - CHACRA & SOUTH B	23.0	EL PASO NATURAL G
8211526	NM0023-81-ER	3003920404		108-ER		SAN JUAN 28-7 UNIT NP #151	BASIN DAKOTA GAS	0.0	EL PASO NATURAL G
8211553	NM-1446-81	3004509161		108		SELLERS #6	BASIN - DAKOTA GAS	20.0	EL PASO NATURAL G
8211570	NM-1500-81	3004520854		108		SELLERS #7	AZTEC - PICTURED CLIFFS	18.0	EL PASO NATURAL G
8211558	NM-1453-81	3004512079		108		STOREY #5	BLANCO SOUTH PICTURED CL	20.0	EL PASO NATURAL G
8211527	NM0024-81-ER	3004521047		108-ER		SUNRAY F #5	BLANCO-PICTURED CLIFFS G	0.0	EL PASO NATURAL G
8211557	NM 1452-81	3004505660		108		WHAN JONES #1	BALLARD - PICTURED CLIFF	22.0	EL PASO NATURAL G
-ELLIOTT OIL CO				RECEIVED: 12/17/81 JA: NM 4					
8211534	NM1171-81-B	3003922575		103		ORA #1	BLANCO MESA VERDE/BASIN	100.0	EL PASO NATURAL G
8211535	NM1171-81-C	3003922575		103		ORA #1	BLANCO MESA VERDE/BASIN	100.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC				RECEIVED: 12/17/81 JA: NM 4					
8211587	NM1596-81	3004507466		108		GALLEGOS CANYON UNIT P C #5	KUTZ WEST PICTURED CLIFF	6.2	EL PASO NATURAL G
-FRED POOL JR.				RECEIVED: 12/17/81 JA: NM 4					
8211550	NM-1437-81	3000560702		107-TF		GRYNBERG COMM FED #1	UND WILDCAT	0.0	TRANSWESTERN PIPE
-GETTY OIL COMPANY				RECEIVED: 12/17/81 JA: NM 4					
8211582	NM 1519-81-A	3003922720		103		JICARILLA C #14E	BASIN DAKOTA	70.0	EL PASO NATURAL G
8211583	NM 1519-81-B	3003922720		103		JICARILLA C #14E	OTERO GALLUP	105.0	EL PASO NATURAL G
8211584	NM 1520-81-A	3003922723		103		JICARILLA C #28	BASIN DAKOTA	175.0	EL PASO NATURAL G
8211585	NM1520-81-B	3003922723		103		JICARILLA C #28	OTERO GALLUP	70.0	EL PASO NATURAL G
8211537	NM1365-81	3003922722		103		JICARILLA C #31	BLANCO PICTURED CLIFFS S	200.0	EL PASO NATURAL G
-JACK A COLE				RECEIVED: 12/17/81 JA: NM 4					
8211544	NM-1423-81	3003921908		108		APACHE HILLS #4	BALLARD PICTURED CLIFFS	14.9	EL PASO NATURAL G
-JEROME P MCHUGH				RECEIVED: 12/17/81 JA: NM 4					
8211571	NM 1501-81	3004524983		103		HARDIE #1E	BASIN DAKOTA	302.0	EL PASO NATURAL G
8211572	NM 1502-81	3004524939		103		HARDIE #2E	BASIN DAKOTA	700.0	EL PASO NATURAL G
8211573	NM 1503-81	3004524938		103		HARDIE #4E	BASIN DAKOTA	900.0	EL PASO NATURAL G
8211574	NM 1504-81	3004524935		103		HARDIE #5E	BASIN DAKOTA	207.0	EL PASO NATURAL G
8211575	NM 1505-81	3004524961		103		NASSAU #3E	BASIN DAKOTA	290.0	EL PASO NATURAL G
-KENAI OIL AND GAS INC				RECEIVED: 12/17/81 JA: NM 4					
8211563	NM-1489-81	3004524520		102-2		FEDERAL #9-31	NAGEEZI	0.0	GAS CO OF NEW MEX
8211564	NM-1490-81	3004524439		102-2		JEFFERS FEDERAL #2-23	WILDCAT	0.0	GAS CO OF NEW MEX
-MOBIL PROG TEXAS & NEW MEXICO INC				RECEIVED: 12/17/81 JA: NM 4					
8211539	NM-1409-81	3003900000		108		JICARILLA E #2A	BLANCO MESA VERDE	9.0	NORTHWEST PIPELIN
8211538	NM-1406-81	3003900000		108		JICARILLA F #2A	BLANCO MESA VERDE GAS	17.0	NORTHWEST PIPELIN
-MTS LTD PARTNERSHIP				RECEIVED: 12/17/81 JA: NM 4					

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8211543	NM-1422-81	3000561002		102-2		DORIS FEDERAL #1	UNDESIGNATED ABO	960.0	TRANSWESTERN PIPE
8211543	NM-1422-81	3000561002		107-TF		DORIS FEDERAL #1	UNDESIGNATED ABO	960.0	TRANSWESTERN PIPE
-NORTHWEST PIPELINE CORPORATION				RECEIVED: 12/17/81 JA: NM 4					
8211549	NM-1435-81	3004506912		108		BLANCO #1	BLANCO MESAVERDE	24.0	NORTHWEST PIPELIN
8211547	NM-1426-81	3003922468		103		SAN JUAN 29-5 #102	GOBERNADOR PICTURED CLIF	59.0	NORTHWEST PIPELIN
8211546	NM-1425-81-B	3004524541		103		SAN JUAN 32-8 #12A DK	BASIN DAKOTA	45.0	NORTHWEST PIPELIN
8211545	NM-1425-81-A	3004524541		103		SAN JUAN 32-8 #12A MV	BLANCO MESAVERDE	47.6	EL PASO NATURAL G
8211548	NM-1427-81	3004524510		103		SAN JUAN 32-8 #41	UNDESIGNATED FRUITLAND	17.0	EL PASO NATURAL G
-PETRO-LEWIS CORPORATION				RECEIVED: 12/17/81 JA: NM 4					
8211581	NM 1518-81	3003906180		108		FLORANCE #1	TAPACITO	15.8	EL PASO NATURAL G
8211580	NM-1517-81	3003906170		108		FLORANCE #3	TAPACITO	16.3	EL PASO NATURAL G
8211579	NM-1516-81	3003906175		108		RUDDOCK #2	TAPACITO	19.3	EL PASO NATURAL G
8211562	NM 1480-81	3003921634		103		RUDDOCK #9	TAPACITO	331.4	EL PASO NATURAL G
-SUN OIL COMPANY (DELAWARE)				RECEIVED: 12/17/81 JA: NM 4					
8211528	NM-1327-80	3001523095		102-4		CHARLOTTE MCKAY FEDERAL #1	CEMETERY	83.0	TRANSWESTERN PIPE
-SUPERIOR OIL CO				RECEIVED: 12/17/81 JA: NM 4					
8211530	NM0359-81	3004320499		103		JICARILLA 55 #1	CHACON DAKOTA	0.0	
8211529	NM0358-81	3004320496		103		JICARILLA 55 #2	CHACON DAKOTA	0.0	
8211531	NM-0713-81	3004500000		103		MCELMO CREEK UNIT T-16	GREATER ANETH	0.0	EL PASO NATURAL G
8211532	NM-0720-81	3001523459		103		SOTOL FEDERAL #1	WILDCAT	0.0	
-TENNECO OIL COMPANY				RECEIVED: 12/17/81 JA: NM 4					
8211560	NM 1463-81	3004524951		103		DAY #3E	BASIN DAKOTA	500.0	EL PASO NATURAL G
8211561	NM 1464-81	3004524032		103		HUGHES #3E	BASIN DAKOTA	500.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED: 12/17/81 JA: NM 4					
8211577	NM150781102	3000561018		102-2		MCCLELLAN MB FEDERAL #3	UNDESIGNATED	0.0	TRANSWESTERN PIPE
8211577	NM150781102	3000561018		107-TF		MCCLELLAN MB FEDERAL #3	UNDESIGNATED	0.0	TRANSWESTERN PIPE
8211576	NM150681102	3000561013		102-2		SOUTH ALKALI LK FEDERAL #2	UND ABO	0.0	TRANSWESTERN PIPE
8211576	NM150681102	3000561013		107-TF		SOUTH ALKALI LK FEDERAL #2	UND ABO	0.0	TRANSWESTERN PIPE
-SUPERIOR OIL CO				RECEIVED: 12/17/81 JA: UT 4					
8211533	NM1128-81	4303730652		103		MCELMO CREEK UNIT Q-19	GREATER ANETH	0.0	EL PASO NATURAL G

OTHER PURCHASERS VOLUME NO :579

8211656 RINGWOOD GATHERING CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission by February 8, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–1641 Filed 1–21–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 19, 1982.

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
ALABAMA OIL & GAS BOARD									
-ANDERMAN OPERATING COMPANY			RECEIVED: 12/21/81 JA: AL						
8211722	10-9-813PD	0107520349		102-4		MCGEE WEYERHAUSER #13-9	STAR	186.0	
8211726	12-11-812PD	0107520349		102-4		MCGEE WEYERHAUSER #13-9	STAR	186.0	
-GRACE PETROLEUM CORPORATION			RECEIVED: 12/21/81 JA: AL						
8211721	6-3-8112PD-B	0107520332		102-4		SIZEMORE 3-10	BLOWHORN CREEK	0.0	SOUTHERN NATURAL
-MORROW OIL & GAS CO			RECEIVED: 12/21/81 JA: AL						
8211723	10-9-8112-PD	0105720183		102-4		WATKINS UNIT #1	SOUTHWEST FAYETTE	389.7	CORONADO TRANSMIS
-SOUTHLAND ROYALTY CO			RECEIVED: 12/21/81 JA: AL						
8211725	12-11-811PD	0107520353		102-2		R E WILLIAMSON 34-16 #1	STAR	250.0	TENNESSEE GAS PIP
-TERRA RESOURCES INC			RECEIVED: 12/21/81 JA: AL						
8211724	11-13-8111PD	0105720234		102-4		YARBROUGH 34-3	MCCRACKEN MOUNTAIN	0.0	WARRIOR DRILLING
-UNITED STATES STEEL CORP			RECEIVED: 12/21/81 JA: AL						
8211720	12-11-8113PD	0107300000		107-TF		OAK GROVE COAL DEGAS #19-10-15	OAK GROVE COAL DEGASIFIC	3.0	SOUTHERN NATURAL
8211712	12-11-8120PD	0107300000		107-TF		OAK GROVE COAL DEGAS #19-10-6	OAK GROVE COAL DEGASIFIC	9.0	SOUTHERN NATURAL
8211735	12-118111PD	0107300000		107-TF		OAK GROVE COAL DEGAS #19-11-16	OAK GROVE COAL DEGASIFIC	30.0	SOUTHERN NATURAL
8211727	12-11-813PD	0107300000		107-TF		OAK GROVE COAL DEGAS #19-12-25	OAK GROVE COAL DEGASIFIC	10.0	SOUTHERN NATURAL
8211728	12-11-814PD	0107300000		107-TF		OAK GROVE COAL DEGAS #19-13-24	OAK GROVE COAL DEGASIFIC	12.0	SOUTHERN NATURAL
8211734	12-11-8110PD	0107300000		107-TF		OAK GROVE COAL DEGAS #19-14-17	OAK GROVE COAL DEGASIFIC	13.0	SOUTHERN NATURAL
8211718	12-11-8114PD	0107300000		107-TF		OAK GROVE COAL DEGAS #19-15-13	OAK GROVE COAL DEGASIFIC	29.0	SOUTHERN NATURAL
8211719	12-11-8112PD	0107300000		107-TF		OAK GROVE COAL DEGAS #19-15-14	OAK GROVE COAL DEGASIFIC	3.0	SOUTHERN NATURAL
8211714	12-11-8118PD	0107300000		107-TF		OAK GROVE COAL DEGAS #19-15-8	OAK GROVE COAL DEGASIFIC	12.0	SOUTHERN NATURAL
8211709	12-11-8124PD	0107300000		107-TF		OAK GROVE COAL DEGAS #19-16-3	OAK GROVE COAL DEGASIFIC	28.0	SOUTHERN NATURAL
8211710	12-11-8123PD	0107300000		107-TF		OAK GROVE COAL DEGAS #19-16-4	OAK GROVE COAL DEGASIFIC	17.0	SOUTHERN NATURAL
8211711	12-11-8121PD	0107300000		107-TF		OAK GROVE COAL DEGAS #19-9-5	OAK GROVE COAL DEGASIFIC	17.0	SOUTHERN NATURAL
8211708	12-11-8124PD	0107300000		107-TF		OAK GROVE COAL DEGAS #30-1-2	OAK GROVE COAL DEGASIFIC	42.0	SOUTHERN NATURAL
8211717	12-11-8118PD	0107300000		107-TF		OAK GROVE COAL DEGAS #30-2-12	OAK GROVE COAL DEGASIFIC	24.0	SOUTHERN NATURAL
8211715	12-11-8116PD	0107300000		107-TF		OAK GROVE COAL DEGAS #30-2-9	OAK GROVE COAL DEGASIFIC	24.0	SOUTHERN NATURAL
8211733	12-11-819PD	0107300000		107-TF		OAK GROVE COAL DEGAS #30-3-18	OAK GROVE COAL DEGASIFIC	12.0	SOUTHERN NATURAL
8211732	12-11-818PD	0107300000		107-TF		OAK GROVE COAL DEGAS #30-3-19	OAK GROVE COAL DEGASIFIC	7.0	SOUTHERN NATURAL
8211730	12-11-816PD	0107300000		107-TF		OAK GROVE COAL DEGAS #30-4-22	OAK GROVE COAL DEGASIFIC	7.0	SOUTHERN NATURAL
8211729	12-11-815PD	0107300000		107-TF		OAK GROVE COAL DEGAS #30-4-23	OAK GROVE COAL DEGASIFIC	5.0	SOUTHERN NATURAL
8211731	12-11-817PD	0107300000		107-TF		OAK GROVE COAL DEGAS #30-5-21	OAK GROVE COAL DEGASIFIC	5.0	SOUTHERN NATURAL
8211716	12-11-8117PD	0107300000		107-TF		OAK GROVE COAL DEGAS #30-7-11	OAK GROVE COAL DEGASIFIC	6.0	SOUTHERN NATURAL
8211707	12-11-8126PD	0107300000		107-TF		OAK GROVE COAL DEGAS #30-8-1	OAK GROVE COAL DEGASIFIC	14.0	SOUTHERN NATURAL
8211713	12-11-8119PD	0107300000		107-TF		OAK GROVE COAL DEGASIFICATION #19-*	OAK GROVE COAL DEGASIFIC	25.0	SOUTHERN NATURAL
CALIFORNIA DEPARTMENT OF CONSERVATION									
-HUSKY OIL COMPANY			RECEIVED: 12/21/81 JA: CA						
8211736	81-6-0031	0410320116		102-4		HUSKY-TENNECO FOX 1-34	RANCHO CAPAY GAS FIELD	253.0	PACIFIC GAS & ELE
-TENNECO OIL COMPANY			RECEIVED: 12/21/81 JA: CA						

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8211739	81-4-0072	0402959568		102-4		CHEVRON FEE SOUTH 36X-33	RIO VIEJO	1.0	ARCO OIL & GAS CO
8211738	81-4-0071	0402958785		102-4		CHEVRON FEE SOUTH 66X-33	RIO VIEJO	37.0	ARCO OIL & GAS CO
8211737	81-4-0070	0402955342		102-4		CHEVRON FEE SOUTH 86X-33	RIO VIEJO	24.0	ARCO OIL & GAS CO
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-ADOLPH ROVSEK				RECEIVED: 12/21/81		JA: MI			
8211740		2105900000	D	103		J & S BRADFORD #1A-10	W/2 SE/4 NW/4 SEC 10 ADA	46.7	MARATHON OIL CO
-AMOCO PRODUCTION CO				RECEIVED: 12/21/81		JA: MI			
8211741		2107934062		102-4		WILBUR #3-20	COLDSPRINGS 20A-28N-6W	595.0	MICHIGAN CONSOLID
NORTH DAKOTA INDUSTRIAL COMMISSION									
-AL-AQUITAINE EXPLORATION LTD				RECEIVED: 12/21/81		JA: ND			
8211748	409	3305301245		102-2		THURLOW 1-13	SOUTH SIOUX	180.0	
8211742	410	3300700657		102-3		WHISKEY JOE 3-15	WHISKEY JOE	110.0	WESTERN GAS PROCE
-BWAB INC				RECEIVED: 12/21/81		JA: ND			
8211745	413	3305301189		102-2		ECKERT FOUNDATION #22-14X	WILDCAT	0.0	
-DOME PETROLEUM CORP				RECEIVED: 12/21/81		JA: ND			
8211743	411	3305301250		102-2		STATE #1-36	MON DAK	11.1	SHELL OIL CO
-HUNT OIL COMPANY				RECEIVED: 12/21/81		JA: ND			
8211744	412	3305301175		102-2		FAULCONBRIDGE EST #1	MONDAK	40.0	MONTANA-DAKOTA UT
-UNIVERSAL RESOURCES CORPORATION				RECEIVED: 12/21/81		JA: ND			
8211746	414	3310500000		102-2		BENDIXSON 1-17	WILDCAT	0.0	PHILLIPS PETROLEU
8211747	415	3310500000		102-2		BREVIK 1-8	WILDCAT	0.0	PHILLIPS PETROLEU
OKLAHOMA CORPORATION COMMISSION									
-APOLLO PRODUCTION LTD				RECEIVED: 12/21/81		JA: OK			
8211785	14861	3507323303		102-4		COFFEY #35-15	N E OKARCHE	110.0	SID RICHARDSON CA
8211786	14918	3507323155		102-4		WITTROCK #35-11	SOONER TREND	73.0	SID RICHARDSON CA
-ARCO OIL AND GAS COMPANY				RECEIVED: 12/21/81		JA: OK			
8211814	15424	3507920423		102-4		R W REED #1	UNNAMED	365.0	
-ATLAS OIL INC				RECEIVED: 12/21/81		JA: OK			
8211820	11667	3508321707		102-4		BROSS 1-4	WEST GUTHRIE FIELD	365.0	EASON OIL CO
-BEARD OIL COMPANY				RECEIVED: 12/21/81		JA: OK			
8211813	15350	3510920470		102-4		GRAHAM #1-A	CHOCTAW	350.0	CHAMPLIN PETROLEU
-CAYMAN EXPLORATION CORP				RECEIVED: 12/18/81		JA: OK			
8211830	11872	3500320735		103		SCHALLNER #1	SOONER TREND	47.0	PANHANDLE EASTERN
-CHAMPLIN EXPLORATION INC				RECEIVED: 12/18/81		JA: OK			
8211827	11854	3509322222		103		BIERIG #4	RINGWOOD	150.0	PIONEER GAS PRODU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED: 12/18/81		JA: OK			
8211841	11676	3509322233		103		P J WHITENECK A #2	E CHANEY DELL	0.0	CHAMPLIN PETROLEU
-CRAIN & DEISENROTH				RECEIVED: 12/21/81		JA: OK			
8211817	01040	3511900000		102-4		KOLB #3	N GARR NW NW SE OF SEC 5	7.3	
8211816	01039	3511900000		102-4		MORRIS #1	N GARR NE NW SW OF SEC 5	5.5	
-D & H OIL INC				RECEIVED: 12/21/81		JA: OK			
8211810	11922	3510321105		103		JEWELL #2	EAST POLO	21.9	ARCO OIL & GAS CO
-DAVIS BROS OIL PRODUCERS INC				RECEIVED: 12/21/81		JA: OK			
8211808	11908	3501922137		103		MCCRORY #1	TATUM	0.0	MOBIL OIL CORP
8211809	11909	3501922161		103		MCCRORY #2	TATUM	0.0	MOBIL OIL CORP
8211807	11907	3501922175		103		MCCRORY #3	TATUM	0.0	MOBIL OIL CORP
-DYCO PETROLEUM CORPORATION				RECEIVED: 12/21/81		JA: OK			

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JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME
8211811	11926	3515320449		108		STATE "A" #2
-ENSERCH EXPLORATION INC				RECEIVED: 12/18/81 JA: OK		
8211844	11609	3514920121		103		MULLINS-BEARDSLEY #1
-FLINT & ASSOCIATES				RECEIVED: 12/18/81 JA: OK		
8211845	11722	3512321079		103		BLAKE #1
8211846	11848	3512321128		103		HILLTOP #1
8211824	11849	3512321140		103		HILLTOP #2
8211826	11851	3512321151		103		HILLTOP #3
8211823	11850	3512321152		103		HILLTOP #4
-GEORGE RODMAN INC				RECEIVED: 12/18/81 JA: OK		
8211829	11864	3508720558		103		SHOBERT #2-23
-HENRY H GUNGOLL ASSOCIATES				RECEIVED: 12/18/81 JA: OK		
8211832	11874	3509322183		103		CRAMER 1-24
-HPC INC				RECEIVED: 12/18/81 JA: OK		
8211831	11873	3503920363		103		RYMER #1
-KENNEDY & MITCHELL INC				RECEIVED: 12/21/81 JA: OK		
8211799	11887	3515121046		103		CASE #29-368
8211798	11886	3500721801		103		PULIS #17-A
8211802	11790	3505920904		103		WAUGH #28-451
-L D WARD				RECEIVED: 12/21/81 JA: OK		
8211781	11944	3507322645		103		MARSHALL #2
-MOBIL OIL CORP				RECEIVED: 12/21/81 JA: OK		
8211819	11637	3500700000		108		RAY I GUSTIN #1
-MONSANTO COMPANY				RECEIVED: 12/18/81 JA: OK		
8211825	11677	3500720682		108		LAND #1
-MORAN EXPLORATION INC				RECEIVED: 12/21/81 JA: OK		
8211797	11881	3501721803		103		SULLIVAN #1
-NFC PETROLEUM CORP				RECEIVED: 12/21/81 JA: OK		
8211822	11759	3515120833		103		MCBRIDE #1-19
-OXLEY PETROLEUM CO				RECEIVED: 12/18/81 JA: OK		
8211838	11340	3512120835		103		WHITE ESTATE NO 1
-P-T LTD II				RECEIVED: 12/18/81 JA: OK		
8211835	09916	3504721697		103		VALTR #17-1
-P-T LTD 80				RECEIVED: 12/18/81 JA: OK		
8211839	11465	3504722395		103		GOFF 14-1
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 12/18/81 JA: OK		
8211842	10899	3513900000		108		LUMAN #1
8211836	9696	3513921375		103		NORTON C #2
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 12/21/81 JA: OK		
8211784	11963	3501720659		108		NIEMANN "B" #1
8211783	11962	3513720414		108		RABB #2
8211782	11961	3504721087		108		TOEWS "A" #1-36
-RESOURCES INVESTMENT CORPORATION				RECEIVED: 12/18/81 JA: OK		
8211840	11619	3507321918		103		ENIX-STATE #1
-RICHARD W THOMPSON INC				RECEIVED: 12/21/81 JA: OK		
8211815	15428	3508321812		102-4		PARKER #1
-S K TUTHILL & B J BARBEE				RECEIVED: 12/21/81 JA: OK		
8211821	11719	3515120817		108		MASSMAN #2-24
8211818	11625	3515320905		108		WALKER #1-7
-SAMSON RESOURCES COMPANY				RECEIVED: 12/18/81 JA: OK		
8211834	09831	3506120372		103		JONES #36-1
-SHEMEN PRODUCTION INC				RECEIVED: 12/21/81 JA: OK		
8211788	15430	3514300000		102-2		AGAPE #3

FIELD NAME	PROD	PURCHASER
CEDARDALE N W	6.0	NORTHERN NATURAL
BURNS FLAT	0.0	NATURAL GAS PIPEL
WEST ALLEN	365.0	SUN GAS CO
WEST ALLEN	365.0	SUN GAS CO
WEST ALLEN	365.0	SUN GAS CO
WEST ALLEN	365.0	SUN GAS CO
WEST ALLEN	365.0	SUN GAS CO
PAYNE	23.2	SUN GAS CO
SOONER TREND	164.0	
EAST CUSTER CITY	18.0	MICHIGAN-WISCONSI
UNDESIGNATED (SW SW SEC	150.0	NORTHERN NATURAL
UNDESIGNATED (C SW SEC	100.0	NORTHERN NATURAL
UNDESIGNATED (C SW SEC 9	450.0	NORTHERN NATURAL
SOONER TREND	36.0	PANHANDLE EASTERN
LOGAN SW	2.9	PHILLIPS PETROLEU
MOCANE-LAVERNE	18.0	NORTHERN NATURAL
YUKON AREA	0.0	PHILLIPS PETROLEU
OAKDALE	27.0	AMINOIL USA INC
	1000.0	ARKANSAS LOUISIAN
SOONER TREND	50.0	ONG WESTERN INC
SOONER TREND	35.0	WELLHEAD ENTERPRI
GUYMON HUGOTON	0.0	PANHANDLE EASTERN
GUYMON HUGOTON	105.0	MICHIGAN WISCONSI
N W RICHLAND	0.0	OKLAHOMA GAS & EL
S E DOYLE	12.7	AMINOIL USA INC
SOONER TREND	18.3	TRANSOK PIPELINE
N W DUNLAP	0.0	PHILLIPS PETROLEU
LAKE GUTHRIE SOUTH	200.0	WESTERN STATES GA
N WOODS EXT	109.0	PRODUCERS GAS CO
SOUTH EAST FAIRVALLEY	76.0	PANHANDLE EASTERN
BOKOSHE FIELD	50.0	ARKANSAS LOUISIAN
N COLLINSVILLE	0.0	DIAMOND S GAS SYS

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8211787	15429	3514300000		102-2		AGAPE #6		0.0	DIAMOND S GAS SYS
-SPELLER OIL CORP				RECEIVED: 12/21/81 JA: OK					
8211801	11773	3507322775		103		DAN "36" #1	SOONER TREND	16.8	EASON OIL CO
-STATEX PETROLEUM INC				RECEIVED: 12/21/81 JA: OK					
8211812	14617	3510321455		102-4		HONEYWELL #2-15	POLO	7.0	AMINOIL USA INC
-TENNECO OIL COMPANY				RECEIVED: 12/18/81 JA: OK					
8211843	11006	3507321938		103		STATE OF OKLAHOMA #1-16A	SOONER TREND	42.0	EXXON CORP
-UNIVERSAL RESOURCES CORPORATION				RECEIVED: 12/18/81 JA: OK					
8211837	10035	3507222643		103		SHAFENBERG #1-31	SOONER TREND (HTN SIMP M	146.0	PHILLIPS PETROLEU
-VIERSEN & COCHRAN				RECEIVED: 12/18/81 JA: OK					
8211833	15320	3501721983		102-2		SPURLIN #2-14	EAST EL RENO	150.0	DELHI GAS PIPELIN
-VULCAN ENERGY CORP				RECEIVED: 12/18/81 JA: OK					
8211828	11862	3507322667		103		BURNETT #1	SOONER TREND	109.0	PHILLIPS PETROLEU
-VULCAN ENERGY CORP				RECEIVED: 12/21/81 JA: OK					
8211780	11943	3507322989		103		KRITTENBRINK #1	SOONER TREND	365.0	PHILLIPS PETROLEU
8211806	11861	3507323034		103		SIMPSON #1	SOONER TREND	25.5	PHILLIPS PETROLEU
-WESTERN OIL RESOURCES LTD				RECEIVED: 12/21/81 JA: OK					
8211803	11795	3511720867		103		FRITCHMAN #1	WEST JENNINGS	4.4	MID-AMERICA GAS L
8211804	11796	3511720909		103		FRITCHMAN #2	WEST JENNINGS	3.7	MID-AMERICA GAS L
8211794	11804	3511720774		103		NEJ 1-TJ-2	NORTHEAST JENNINGS	7.3	MID-AMERICA GAS L
8211791	11801	3511720766		103		NEJ 1-01	NORTHEAST JENNINGS	3.7	MID-AMERICA GAS L
8211792	11802	3511720767		103		NEJ 1-02	NORTHEAST JENNINGS	7.3	MID-AMERICA GAS L
8211793	11803	3511720776		103		NEJ 1-03	NORTHEAST JENNINGS	20.1	MID-AMERICA GAS L
8211795	11805	3511720822		103		NEJ 2-02	NORTHEAST JENNINGS	102.2	MID-AMERICA GAS L
8211796	11806	3511720854		103		NEJ 2-04	NORTHEAST JENNINGS	29.2	MID-AMERICA GAS L
8211805	11797	3511720762		103		WJ 1-01	WEST JENNINGS	29.2	MID-AMERICA GAS L
8211800	11798	3511720773		103		WJ 1-02	WEST JENNINGS	38.3	MID-AMERICA GAS L
8211789	11799	3511720938		103		WJ 1-02A	WEST JENNINGS	14.6	
8211790	11800	3511720988		103		WJ 1-06	WEST JENNINGS	14.6	MID-AMERICA GAS L
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** U.S. GEOLOGICAL SURVEY - DENVER,CO									
**********									
-BELCO PETROLEUM CORPORATION				RECEIVED: 12/21/81 JA: UT 1					
8211778	UD0145-81	4304730627		102-4		DUCK CREEK 10-16	DUCK CREEK	0.0	NORTHWEST PIPELIN
8211777	UD0139-81	4304730626		102-4		DUCK CREEK 11-16	DUCK CREEK	0.0	NORTHWEST PIPELIN
8211776	UD0039-81	4304730652		102-4		DUCK CREEK 14-16	DUCK CREEK	0.0	NORTHWEST PIPELIN
8211773	UD0141-81	4304730649		102-4		DUCK CREEK 15-16	DUCK CREEK	0.0	NORTHWEST PIPELIN
8211772	UD0037-81	4304730653		102-4		DUCK CREEK 16-16	DUCK CREEK	0.0	NORTHWEST PIPELIN
8211766	UD0031-81	4304730655		102-4		DUCK CREEK 18-16	DUCK CREEK	0.0	NORTHWEST PIPELIN
8211771	UD0140-81	4304730650		102-4		DUCK CREEK 20-9	DUCK CREEK	0.0	NORTHWEST PIPELIN
8211774	UD0143-81	4304730775		102-4		DUCK CREEK 24-17 GR	DUCK CREEK	0.0	NORTHWEST PIPELIN
8211760		4304730810		103		DUCK CREEK 32-17GR	UNDESIGNATED	0.0	NORTHWEST PIPELIN
8211761	UD0144-81	4304730628		102-4		DUCK CREEK 8-16	DUCK CREEK	0.0	NORTHWEST PIPELIN
8211764	UD0034-81	4304730393		102-4		NATURAL DUCK 1-15	NATURAL DUCK	0.0	COLORADO INTERSTA
8211779	UD0317-81	4304730769		102-4		NATURAL DUCK 10-21	NATURAL DUCK	0.0	COLORADO INTERSTA
8211770	UD0318-81	4304730770		102-4		NATURAL DUCK 11-21	NATURAL DUCK	0.0	NORTHWEST PIPELIN
8211769	UD0319-81	4304730771		102-4		NATURAL DUCK 12-21GR	NATURAL DUCK	0.0	NORTHWEST PIPELIN
8211767	UD0035-81	4304730646		102-4		NATURAL DUCK 5-15	NATURAL DUCK	0.0	NORTHWEST PIPELIN
8211763	UD0033-81	4304730647		102-4		NATURAL DUCK 6-15	NATURAL DUCK	0.0	COLORADO INTERSTA
8211762	UD0032-81	4304730679		102-4		NATURAL DUCK 8-15GR	NATURAL DUCK	0.0	COASTAL OIL & GAS
8211765	UD0036-81	4304730680		102-4		NATURAL DUCK 9-15	NATURAL DUCK	0.0	COLORADO INTERSTA
8211768	UD0038-81	4304730523		102-4		NBU-34Y	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
-COASTAL OIL & GAS CORP				RECEIVED: 12/21/81 JA: UT 1					

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8211754	UD 0385-81	4304730468		107-TF		NATURAL BUTTES UNIT 41-34B	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
8211749		4304730450		107-TF		NATURAL BUTTES UNIT 46-26B	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
8211757		4304730453		107-TF		NATURAL BUTTES UNIT 50-19B	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
8211756		4304730431		107-TF		NATURAL BUTTES UNIT 52-1B	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
8211750		4304730477		107-TF		NATURAL BUTTES UNIT 62-35B	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
8211758		4304730466		107-TF		NATURAL BUTTES UNIT 63-12B	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
8211752		4304730577		107-TF		NATURAL BUTTES UNIT 70-34B	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
-CONOCO INC				RECEIVED: 12/21/81 JA: UT 1					
8211759		4304740667		103		CONOCO UTE TRIBAL 6 #1	OURAY	150.0	MOUNTAIN FUEL SUP
-MCCULLOCH OIL & GAS CORP				RECEIVED: 12/21/81 JA: UT 1					
8211755		4303730485		102-4		FEDERAL 1-19	SQUAW CANYON	146.0	EL PASO NATURAL G
-PAGE PETROLEUM INC				RECEIVED: 12/21/81 JA: UT 1					
8211753		4304700000		103		UTE TRIBAL 1-11-B1E		18.0	GARY ENERGY CORP
8211751		4304730774		103		UTE TRIBAL 1-14-B1E	ALTAMONT-BLUEBELL	15.0	GARY ENERGY CORP
-PETROLEUM CORPORATION OF TEXAS				RECEIVED: 12/21/81 JA: UT 1					
8211775	UD0142-81	4304730541		102-4		DUCK CREEK 17-16	DUCK CREEK	0.0	NORTHWEST PIPELIN

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission by February 8, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–1642 Filed 1–21–82; 8:45 am]

BILLING CODE 6717–01–M

Alabama-Tennessee Natural Gas Co.; Application

[Docket No. CP82–122–000]

January 19, 1982.

Take notice that on December 17, 1981, Alabama-Tennessee Natural Gas Company (Applicant), P.O. Box 918, Florence, Alabama, 35631, filed in Docket No. CP82–122–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities on its interstate natural gas transmission system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate pipeline facilities consisting of 1.20 miles of 16-inch O.D. pipeline and 0.85 mile of 10¾ inch O.D. pipeline extending from a point on Applicant's main pipeline system near Barton, Alabama, to a gas turbine power plant owned and operated by Tennessee Valley Authority (TVA) on the Tennessee River in Colbert County, Alabama, together with the necessary metering and regulating facilities.

It is stated that by agreement between Applicant and TVA dated December 15, 1981, TVA would receive interruptible natural gas service when available from Applicant and would provide Applicant a facilities' payment to offset Applicant's expense for construction of the facilities required to provide this service. It is stated that the construction proposed is required in order to permit Applicant to deliver TVA's requirements of up to 6,000 Mcf per hour of interruptible gas.

Applicant states that the service herein proposed would allow it to maintain minimum monthly purchases from its primary supplier thereby relieving Applicant of the minimum take or pay obligations associated therewith. Applicant further states that the proposed service would allow TVA to realize an estimated annual monetary savings of at least $4,000,000 in fuel costs by being able to displace #2 oil with natural gas in TVA's turbine power plant.

Applicant estimates the cost of the proposed construction at approximately $1,400,000 which would be financed from cash on hand and reimbursed to Applicant by TVA.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82–1623 Filed 1–21–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–136–000]

Distrigas of Massachusetts Corp.; Supplement to Application

January 18, 1982.

Take notice that on January 15, 1981, Distrigas of Massachusetts Corporation (Applicant), 125 High Street, Boston, Massachusetts 02110, filed in Docket No. CP82–136–000 a supplement to its application filed December 24, 1981, pursuant to Section 7(c) and (b) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of approximately 4.1 million MMBtu of additional volumes of liquefied natural gas (LNG) for a limited term, all as more fully set forth in the supplement which is on file with the Commission and open to public inspection.

In its application of December 24, 1981, Applicant proposes to revise Exhibit I, page 2 of 2 and Exhibit N, Schedule 2 to reflect changes in nominated quantities for the February and March, 1982 shipments and to state that it has added a new customer, the Southern Connecticut Gas Company.

It is submitted in its supplement that Applicant has received revised commitments for a portion of the volumes as follows:

ALLOCATION OF ADDITIONAL LNG VOLUMES

Customer	Nominations (percent)	Presently estimated quantity (MMBTU)
1st Cargo		
Brooklyn Union	36.4059	436,871
Bay State	44.7954	537,545
South Jersey	4.6476	55,771

ALLOCATION OF ADDITIONAL LNG VOLUMES—Continued

Customer	Nominations (percent)	Presently estimated quantity (MMBTU)
Connecticut	6.9735	83,682
Fall River	1.1618	13,942
Valley	.9295	11,154
Haverhill	.7746	9,295
New Jersey Natural	4.1667	50,000
Middleboro	.1450	1,740
Total	100.0000	1,200,000
2nd Cargo		
Bay State	6.8372	198,280
Fall River	1.1619	33,695
Valley	.9295	26,956
Haverhill	.7746	22,463
New Jersey Natural	1.7241	50,000
Middleboro	.0600	1,740
Southern Connecticut	6.8966	200,000
Uncommitted	81.6161	2,900,000
Total	100.0000	2,900,000

Applicant also explicitly requests in its supplement the authorization to operate DOMAC's LNG terminal at Everett, Massachusetts, as may be necessary in order to render the service involved.

Any person desiring to be heard or to make any protest with reference to said supplement should on or before January 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed need not file again.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1624 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-298-001]

Florida Gas Transmission Co.; Application

January 19, 1982.

Take notice that on December 21, 1981, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP79-298-001 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the restoration of 29.2 miles of 8-inch pipeline to jurisdictional service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that by Commission order of June 26, 1980, in the instant docket, Applicant was authorized to abandon the Inglis Lateral which had therefore been used to deliver natural gas to Applicant's Inglis electric generating plant. Applicant explains that the facilities abandoned were 29.2 miles of 8-inch pepeline extending from the City of Williston, Florida, to Applicant's Inglis electric generating plant, a measuring station and miscellaneous facilities appurtenant thereto.

Applicant now proposes to restore the Inglis Lateral to jurisdictional service. It is stated that use of the lateral would enhance the reliability of Applicant's system since it would increase the volume that is available for line pack by approximately 2,000 Mcf. Applicant further submits that this line pack could be used to continue to supply gas to the cities of Gainesville, Williston and Ocala, Florida, in the event certain parts of Applicant's system were damaged.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petiton to intervene or a protest in accordance with the requirements of the Commisson's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Coimmission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public conveninence and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1625 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4226-002]

Ft. Miller Pulp & Paper Company, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

January 14, 1982.

Take notice that on December 11, 1981, Ft. Miller Pulp and Paper Company, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§ 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project, Project No. 4226, would be located on the Hudson River in the towns of Ft. Edward and Northumberland in Washington and Saratoga Counties, New York. Correspondence with the Applicant should be directed to: William J. Kenney, Esquire, Perito, Duerk, Carlson, & Pinco, P.C., 1140 Connecticut Avenue, NW., Suite 400, Washington, D.C. 20036.

Project Description—The proposed run-of-the-river development would consist of: (1) the existing 700-foot long wood crib dam, and the existing 50-foot reinforced concrete wing dam, varying in height from two feet to nine feet; (2) the existing 115,000 acre-feet reservoir at elevation 114.90 feet (USGS datum); (3) the existing trash rack and intake gates; (4) an existing powerhouse which houses eight 275-hp vertical Francis hydromechanical grinders and two turbine-generators with a total electrical capacity of approximately 280 kW to be retired; (5) draft tubes which discharge into an existing tailrace; (6) a new powerhouse containing; (7) two horizontal, fully regulated 4,000-MM turbine generator units with a combined capacity of 4,600 kW; (8) two new draft tubes discharging directly to the river at tailwater elevation 103.89 feet (USGS datum); (9) new switchyard equipment; (10) a new transmission line; and (11) appurtenant works. The Applicant estimates average annual energy generated to be 27,600,000 kWh. Project energy would be utiliized by the

Applicant to serve the power needs of its existing paper mill operated at the project site, with surplus power sold to the local public utility.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Servie, The National Marine Fisheries Service, and the New York Division of Fish and Wildlife are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing applicaiton must submit to the Commission, on or before March 2, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-1626 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5755-000]

Foresthill Public Utility District; Application for Preliminary Permit

January 18, 1982.

Take notice that Foresthill Public Utility District (Applicant) filed on December 14, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5755 to be known as the Sugar Pine Dam Power Project located on North Shirttail Creek in Placer County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William J. Martinsen, Manager, Foresthill Public Utility District, P.O. Box 266, Foresthill, California 95631.

Project Description—The proposed project would consist of: (1) a 250-foot long, 14-inch diameter penstock; (2) a powerhouse with a total installed capacity of 80 kW; and (3) a 12-kV transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 0.44 million kWh. The project is located on U.S. Forest Service lands.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which it would conduct technical, environmental and economic studies; and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $20,000.

Competing Applications—This application was filed as a competing application to Auslam & Associates Incorporated's application for Project No. 5344 filed on September 8, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS",

"PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1627 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5689-000]

Groveton Papers Co.; Application for Preliminary Permit

January 18, 1982.

Take notice that Groveton Papers Company (Applicant) filed on November 25, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5689 to be known as the Northumberland Project located on the Connecticut River in Coos County, New Hampshire and in Essex County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. George Pascale, vice-president, Groveton Papers Company, c/o Diamond International Corporation, 733 Third Avenue, New York, New York 10017.

Project Description—The proposed run-of-river project would consist of: 1) The Applicant existing rock crib dam, approximately 140 feet long and creating no storage or pondage but providing 12 feet of net head when topped by 2-foot flashboards; 2) an existing powerhouse on the east bank housing one 700-kW unit; 3) a reconstructed powerhouse on the west bank housing three 600-kW units; 4) a 6.1-mile long, 34.5-kV transmission line; and 5) appurtenant facilities.

The average annual generation of 14.3 million kWh would probably be sold to the Public Service Company of New Hampshire.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under permit would be $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 22, 1982, the competing application itself [see: 18 CFR § 4.30 et seq. (1981)]. A notice of intent to file a competing application for prelimnary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before March 23, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 23, 1982.

Filing and Service of Responsive Documents—Any filings, must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1628 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4668-001]

Hollingsworth & Vose Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 NW Capacity

January 14, 1982.

Take notice that on December 7, 1981, Hollingsworth & Vose Company (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§ 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed Center Falls small hydroelectric project (FERC Project No. 4668) would be located on the Batten Kill River in Washington County, New York. Correspondence with the Applicant should be directed to: William J. Kenny, Esquire, Perito, Duerk, Carlson & Pinco, P.C., 1140 Connecticut Avenue, N.W., Suite 400, Washington, D.C. 20036.

Project Description—The proposed run-of-river development consists of: (1) the existing Dam, a concrete gravity structure approximately 226 feet long and 25 feet high, with 3-foot high wooden flashboards and including an 87-foot long reinforced concrete stanchion section with wooden stoplogs; (2) the existing 400 acre-foot reservoir at an elevation 364.0 feet (U.S.G.S.); (3) an existing forebay canal; (4) the existing inlet gate; (5) an existing powerhouse containing two new turbine generators with a total rated capacity of 1,200 kW; discharging into (6) an existing tailrace; and (7) appurtenant works. The Applicant estimates average annual

energy generated at the project to be 5,800,000 kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New York State Department of Environmental Conservation are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before March 3, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no latter than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 3, 1982.

Filing and Service of Responsive Documents—Any filings, must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208RB, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-1629 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1256-000]

Loup River Public Power District; Application for License (Over 5 MW)

January 18, 1982.

Take notice that Loup River Public Power District (Applicant) filed on April 7, 1981, and supplemented on October 5, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for continued operation of the Loup River Hydroelectric Project No. 1256. The project would be located on the Loup River in Platte and Nance Counties, near Columbus, Nebraska. Correspondence with the Applicant should be directed to: Mr. Max E. Kiburz, General manager, Loup River Public Power District, P.O. Box 988, 2404—15th Street, Columbus, NE 68601.

Project Description—The existing project works consists of: (1) a diversion dam and canal headworks located in the Loup River approximately 6 miles southwest of Genoa, Nebraska; (2) a canal with an overall length of appoximately 28 miles; (3) a regulating reservoir; (4) a wasteway or tailrace canal approximately 5.5 miles long; (5) two powerhouses, one located at the Monroe Powerhouse which has an installed capacity of 7,200 kW, and the other located approximately 1.5 miles downstream from the reservoir at the Columbus Powerhouse with an installed capacity of 40,500 kW; and (6) appurtenant facilities. The total installed capacity for the Monroe and Columbus Powerhouses is 47,700 kW with an annual total energy output of 132,830 MWh.

Purpose of Project—Energy produced at Project No. 1256 is used by the Applicant for sale to its wholesale and retail customers.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, or before March 15, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETENCE APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E.

Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1630 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5439-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

January 18, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on September 30, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 5439 to be known as the Upper West Fork Miller Hydro Power Development located on Miller River within the Snoqualmie-Mt. Baker National Forest in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122—196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) 4 inlets placed in the streambeds of Miller River and tributary creeks; (2) a 54-inch diameter, 15,000-foot long diversion pipeline; (3) a powerhouse containing a turbine generator with a 1.5 NW capacity and 6.22 GWh estimated annual average energy production; (4) transmission lines; and (5) appurtenant facilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time he will conduct studies to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of activities during the preliminary permit period is $20,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before March 15, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981)].

The Commission will acccept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before March 15, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than March 13, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. [A copy of the application may be obtained by agencies directly from the Applicant.] If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1631 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5776-000]

Dr. Daniel C. Merrill; Application for Preliminary Permit

January 18, 1982.

Take notice that Dr. Daniel C. Merrill (Applicant) filed on December 16, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 5776 to be known as the Mawah Creek Hydroelectric Project located on Mawah Creek in Humboldt County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Dr. Daniel C. Merrill, 2127 Danville Boulevard, Walnut Creek, California 94596.

Project Description—The proposed project would consist of: (1) a 6-foot high, 30-foot wide low concrete diversion dam; (2) a 30-inch diameter, 1,000-foot long pipeline; (3) an 18-inch diameter, 500-foot long penstock; (4) a power plant to house a single generating unit with an installed capacity of 350 kW; and (5) a transmission line extending from the power plant to an existing line which is to be upgraded. The average annual energy production is 700,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a period of 36 months, during which it shall conduct technical, economic and environmental feasibility studies and prepare an application for an FERC license. The estimated cost for conducting these studies and preparing an application for an FERC license is $50,000. No new roads would be needed.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before March 15, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response

to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before March 15, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than May 13, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1632 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket NO. TC82-9-000]

Montana-Dakota Utilities Co.; Gas Tariff Filing

January 18, 1982.

Take notice that on December 22, 1981, pursuant to the Commission's Order issued August 27, 1981, in Docket No. RM79-15, 16 FERC ¶ 61,148, Montana-Dakota Utilities Co. (MDU), 400 North Fourth Street, Bismarck, North Dakota 58501, submitted for filing and inclusion in its FERC Gas Tariff First Revised Volume No. 1, the following tariff sheets:

Fourth Revised Sheet No. 100
Fourth Revised Sheet No. 101
Substitute Fourth Revised Sheet No. 102
Substitute Fourth Revised Sheet No. 103
Fourth Revised Sheet No. 104
Fourth Revised Sheet No. 105
Fourth Revised Sheet No. 106
Fourth Revised Sheet No. 110

The sheets are proposed to be effective 30 days from the date of filing or January 14, 1982. The volume changes on the tariff sheets reflect reclassification of natural gas used in boilers for the production of animal feed or food.

MDU states that it has contacted all of its agricultural industrial customers with a Priority 2 allocation who utilize natural gas in boilers. The following are agricultural industrial customer allocations which are reclassified:

Customer	Current	Reclassified	
	Priority 2(a) (Mcf)	Priority 2(a) (Mcf)	Priority 3 (Mcf)
Big Sky Feed & Supply	15,000	450	14,550
Farr Better Feeds	5,179	218	4,961
GTA-Feed Division	25,000	0	25,000
Peavey Co. (Sidney)	9,000	2,000	7,000
Saco Dehi	30,000	28,000	2,000
Peavey Co. (Valley City)	9,000	2,000	7,000
Hubbard Milling Co	16,000	8,756	7,244
Sheridan Commercial Co	4,173	1,640	2,533
Sheridan Meat Co	21,000	14,700	6,300

In addition to the above, MDU states that Hardy Salt Company's Priority 2(c) allocation of 80,746 Mcf is reclassified to 37,143 Mcf in Priority 2(c) and 43,603 Mcf are added to Priority 4. Pierce Packing Company's Priority 2(c) allocation of 176,640 Mcf is reclassified to 91,853 Mcf in Priority 2(c) and 84,878 Mcf in Priority 4. Black Hills Packing Company's Priority 2(a) allocation of 87,065 Mcf is reclassified to 72,840 Mcf in Priority 2(a) and 14,225 Mcf in Priority 4. MDU also submits on Substitute Fourth Revised Sheet No. 103 a volume change for Dickinson Cheese of 12,482 Mcf in Priority 2(a) to 16,302 Mcf in Priority 2(a). The increase reflects the transfer of 3,820 Mcf in priority 2(a) from Lefor Cheese to Dickinson Cheese and the removal of Lefor Cheese from the tariff sheet.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 or § 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10), on or before January 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1633 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5695-000]

Paradise Irrigation District; Application for Exemption for Small Hydroelectric Power Project Under 5 Mw Capacity

January 18, 1982.

Take notice that on November 25, 1981, Paradise Irrigation District (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project, Project No. 5695 would be located on Little Butte Creek, within Lassen National Forest, in Butte County, California. Correspondence with the Applicant should be directed to: Mr. C. Phillip Kelly, Jr., Manager, Paradise Irrigation District, P.O. Box 128, Paradise, California 95969.

Project Description—The proposed project would consist of: (1) the existing 163-foot high Paradise Dam, 11,500 acre-foot capacity reservoir, and 36-inch outlet pipe; (2) a proposed powerhouse containing a turbine generator with 500 kW capacity and 1.43 GWh annual energy output; and (3) a transmission line.

Purpose of Exemption—An exemption, if issued, gives the Exemptee

priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments on or before March 22, 1982, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before March 3, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1634 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-104-000]

Public Service Co. of Colorado; Order Accepting for Filing and Suspending Proposed Rates, Denying Motion for Summary Disposition, Granting Interventions, and Initiating Hearing Procedures

Issued: January 15, 1982.

On November 18, 1981,[1] Public Service Company of Colorado (PSCC) tendered for filing revised rates for service to nine wholesale customers.[2] These rates would provide for an increase in jurisdictional revenues of approximately $18,500,000 for the twelve-month period ending December 31, 1982. PSCC proposes an effective date of January 17, 1982.

PSCC,in its proposed rates, reflects the inclusion of construction work in progress (CWIP) on pollution control facilities and requests that the Commission permit PSCC to use the Accelerated Cost Recovery System (ACRS) created by the Economic Recovery Tax Act of 1981 for property placed into service after 1980.[3] In addition, the Intermountain Rural Electric Association has assigned its Power Purchase Agreement with PSCC to the Colorado-Ute Electric Association, Inc. Upon the Effective date of the proposed rates, PSCC's obligations to Intermountain will cease and will instead be included in its obligation to Colorado-Ute.

Notice of the filing was issued on November 27, 1981, with responses due on or before December 14, 1981. On December 11, 1981, the Colorado-Ute Electric Association, Inc. (Colorado-Ute) filed a petition to intervene. Colorado-Ute complains of an inadequate opportunity to review the proposed rate increase, contends that the proposed rates will not be just and reasonable, and asks that intervention be granted and that a hearing be ordered.

On December 14, 1981, the cities of Aspen, Burlington, Center, Glenwood Springs, Julesberg, and Lyons, Colorado (Cities) filed a protest and petition to intervene. The Cities also state that they have had an inadequate opportunity to review the proposed rates but briefly note a number of cost of service issues. The Cities request that intervention be granted and that the rates be suspended for the maximum five months and a hearing be held to determine whether the proposed rates are just and reasonable. Alternatively, the Cities seek a lesser suspension to be followed by a hearing.

On December 14, 1981, as supplemented on December 21, 1981, the Central Telephone & Utilities Corporation, Southern Colorado Power Division (Centel) filed a protest and petition to intervene. Centel asks that intervention be granted and seeks suspension for the maximum five months with a hearing to determine whether the filing may be unjust and unreasonable. Centel also raises a variety of cost of service issues.

Discussion

Initially, the Commission finds that participation in this proceeding by each of the intervenors is in the public interest. Therefore the petitions to intervene will be granted. In addition, Centel's request for an extension of time will be granted and its supplemental

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[1] An "Affidavit Adopting Testimony" of J.N. Bumpers was filed on November 23, 1981 with a request that it be entered into this docket. Mr. Bumpers was out of town when the original filing was made and so was unavailable to adopt his testimony.

[2] *See* Attachment A for customers and rate schedule designations.

[3] PSCC indicates that this filing was prepared in large part before the anticipated benefits of using the ACRS were known. Subsequently, estimates of the benefits to PSCC for 1982 were made and these estimates were enclosed in the filing.

memorandum in support of its protest and petition to intervene will be accepted for filing.

PSCC has requested Commission authorization to use the newly-created ACRS for property placed into service after 1980. The extent to which the ACRS will affect the cost of service study and so PSCC's rates should be determined during the course of the hearing to be held in this docket, with any necessary adjustments to the cost of service to be made at the time PSCC files its compliance rates in accordance with the Commission's final order in this proceeding.

Our analysis indicates that PSCC's revised rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

In a number of suspension orders,[4] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it might run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. No such circumstances have been presented here. Accordingly, we shall suspend the rates for a period of five months to become effective, subject to refund, on June 18, 1982.

The Commission orders:

(A) PSCC's revised rates including the supplemental "Affidavit Adopting Testimony" of J.N. Bumpers are hereby accepted for filing and are suspended for five months from sixty days after filing, to become effective, subject to refund, on June 18, 1982.

(B) PSCC's request for prior authorization with respect to use of ACRS, as noted in the body of this order, is hereby denied.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of PSCC's rates.

(D) Centel's supplemental memorandum in support of its protests and petition to intervene is hereby accepted for filing.

(E) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(F) The Commission staff shall serve top sheets in this proceeding on or before January 18, 1982.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's rules of practice and procedure.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[4] *E.g., Boston Edison Co.*, Docket No. ER80-508 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80-506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-488 (August 22, 1980) (one day suspension).

PUBLIC SERVICE COMPANY OF COLORADO
RATE SCHEDULE DESIGNATIONS

[Docket No. ER82-104-000]

Filing Date: November 18, 1981.

Other Parties: Wholesale Customers, as shown below.

Designation	Description
City of Aspen, Colorado	
(1) Supplement No. 12 to Rate Schedule FPC No. 3 (Supersedes Supplement No. 10).	Schedule of Rates for Service.
(2) Supplement No. 13 to Rate Schedule FPC No. 3 (Supersedes Supplement No. 11).	Fuel Cost Adjustment Clause.
Town of Lyons, Colorado	
(3) Supplement No. 12 to Rate Schedule FPC No. 6 (Supersedes Supplement No. 10).	Schedule of Rates for Service.

PUBLIC SERVICE COMPANY OF COLORADO
RATE SCHEDULE DESIGNATIONS—Continued

[Docket No. ER82-104-000]

Filing Date: November 18, 1981.

Other Parties: Wholesale Customers, as shown below.

Designation	Description
(4) Supplement No. 13 to Rate Schedule FPC No. 6 (Supersedes Supplement No. 11).	Fuel Cost Adjustment Clause.
Home Light and Power Company	
(5) Supplement No. 16 to Rate Schedule FPC No. 9 (Supersedes Supplement No. 14).	Schedule of Rates for Service.
(6) Supplement No. 17 to Rate Schedule FPC No. 9 (Supersedes Supplement No. 15).	Fuel Cost Adjustment Clause.
City of Glenwood Springs, Colorado	
(7) Supplement No. 11 to Rate Schedule FPC No. 11 (Supersedes Supplement No. 9).	Schedule of Rates for Service.
(8) Supplement No. 12 to Rate Schedule FPC No. 11 (Supersedes Supplement No. 10).	Fuel Cost Adjustment Clause.
Colorado-Ute Electric Association, Inc.	
(9) Supplement No. 18 to Rate Schedule FPC No. 12 (Supersedes Supplement No. 16).	Schedule of Rates for Service (Including Transmission Agreement).
(10) Supplement No. 19 to Rate Schedule FPC No. 12 (Supersedes Supplement No. 17).	Fuel Cost Adjustment Clause.
(11) Supplement No. 20 to Rate Schedule FPC No. 12 (Supersedes Rate Schedule FERC No. 21, as supplemented).	Letter dated May 11, 1981.
City of Burlington, Colorado	
(12) Supplement No. 12 to Rate Schedule FPC No. 15 (Supersedes Supplement No. 9).	Schedule of Rates for Service.
(13) Supplement No. 13 to Rate Schedule FPC No. 15 (Supersedes Supplement No. 10).	Fuel Cost Adjustment Clause.
Central Telephone & Utilities Corporation (Southern Colorado Power Division)	
(14) Supplement No. 12 to Rate Schedule FPC No. 13 (Supersedes Supplement No. 10).	Schedule of Rates for Service.
(15) Supplement No. 13 to Rate Schedule FPC No. 13 (Supersedes Supplement No. 11).	Fuel Cost Adjustment Clause.
Town of Center, Colorado	
(16) Supplement No. 7 to Rate Schedule FPC No. 17 (Supersedes Supplement No. 5).	Schedule of Rates for Service.
(17) Supplement No. 8 to Rate Schedule FPC No. 17 (Supersedes Supplement No. 6).	Fuel Cost Adjustment Clause.
Town of Julesburg, Colorado	
(18) Supplement No. 4 to Rate Schedule FERC No. 20 (Supersedes Supplement No. 3).	Schedule of Rates for Service.
(19) Supplement No. 5 to Rate Schedule FERC No. 20.	Fuel Cost Adjustment Clause.

[FR Doc. 82-1635 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TC81-63-000 and TC81-64-000]

South Georgia Natural Gas Co., Southern Natural Gas Co.; Settlement Agreements

January 18, 1982.

Take notice that on January 6, 1982, South Georgia Nautral Gas Company (South Georgia), P.O. Box 2563, Birmingham, Alabama 35202 and on January 5, 1982, Southern Nautral Gas

Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket Nos. TC81-63-000 and TC81-64-000, respectively, proposed settlement agreements that if approved would effect a termination of both the instant proceedings.

On September 15, 1981, Southern filed revised tariff sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1 with the Commission in order to make changes in the Priority 2.1 gas requirements for the essential agricultural uses (EAU) of its gas purchasers. Such revised tariff sheets were filed to be effective on November 1, 1981, as provided in Section 281.204(b)(2) of the Commission's Regulations. Following due notice in the **Federal Register** on October 1, 1981, protests of Southern's tariff sheets were filed by Atlanta Gas Light Company, Columbia Nitrogen Corporation, and NIPRO, Inc.

On September 15, 1981, South Georgia filed revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, with the Commission in order to make changes in the EAU requirements of its gas purchasers. Such revised tariff sheets were filed to be effective on November 1, 1981, as provided in Section 281.204(b)(2) of the Commission's Regulations. Following due notice in the **Federal Register** on October 1, 1981, protests of South Georgia's tariff sheets were filed by Atlanta Gas Light Company, Columbia Nitrogen Corporation, and NIPRO, Inc.

By order issued October 30, 1981, in *South Georgia Natural Gas Company* and *Southern Natural Gas Company*, Docket Nos. TC81-63-000 and TC81-64-000, the Commission, *inter alia*, accepted South Georgia's and Southern's revised tariff sheets for an interim period commencing November 1, 1981, pending a Commission decision on the protests and directed the parties and the Commission staff to enter into informal settlement negotiations seeking to resolve the matters in these dockets.

Pursuant to the Commission's directive, representatives of South Georgia, Southern, the Commission staff, intervenors and interested parties met at the offices of the Commission on December 3, 1981, in order to resolve the matters in these dockets. These Stipulations and Agreements are a product of those settlement negotiations and when approved by the Commission would resove all of the matters set forth therein in the manner so provided.

Settlement agreements in both dockets are essentially identical. The principal provisions proposed are (1) the EAU requirements reflected in the tariff sheets filed on September 15, 1981, shall remain in effect pending the update of EAU requirements in 1982 in accordance with the procedures prescribed; (2) any direct or resale customer of the pipelines may update its EAU requirements by submitting a resurvey of revised requirements to the data verification committee (DVC) using specified procedures; (3) a review of all EAU requirements will be conducted every 3 years beginning in 1982, subject to the stipulations and agreements remaining in effect; and (4) the DVC shall review all requirements data, as specified for a term thru 1985 and triennially thereafter unless terminated.

Any person desiring to be heard or to make protest with reference to the said settlement proposals should, on or before February 4, 1982, file with the Federal Energy Regulatory Commision, 825 North Capitol Street, N.E., Washington, D.C., 20426, petitions to intervene or protests in acordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the proper action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The settlement proposals are on file with the Commission and are available for public inspection.

Comments on these proposals are to be filed by February 4, 1982 and reply comments are to be filed by February 16, 1982.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1636 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-417-001]

Texas Eastern Transmission Corp; Amendment to Application

January 19, 1982.

Take notice that on December 16, 1981, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77002 filed in Docket No. CP81-417-001 an amendment to its application filed July 16, 1981, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to extend the term of the transportation service to be provided Public Service Electric and Gas Company (Public Service), all as more fully set forth in the amendment which is on file with Commission and open to public inspection.

It is stated that there is a currently effective transportation agreement between Applicant and Public Service dated July 14, 1981, which provides for the transportation of up to 51,394 dekatherms equivalent of natural gas per day which Public Service has purchased from Equitable Gas Company. Transportation under this agreement commenced pursuant to temporary authorization issued August 31, 1981, which is due to terminate on December 31, 1981.

Applicant proposes herein to extend the transportation service through October 31, 1982.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 8, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1637 Filed 1-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5819-000]

Woods Creek, Inc.; Application for Preliminary Permit

January 18, 1982.

Take notice that Woods Creek, Incorporated (Applicant) filed on December 24, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for Project No. 5819 to be known as the Johnson Creek Hydroelectric Project located on Johnson Creek, within the Snoqualmie National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Neil H. MacDonald, Project Manager, Woods Creek Incorporated, 14 South Idaho Street, Seattle, Washington 98134.

Project Description—The proposed project would consist of: (1) a concrete diversion weir 6 feet high located at elevation 2595 feet with negligible storage; (2) a diversion pipeline 36-inch diameter and 13,500 feet long; (3) a powerhouse containing two turbine generators with 4.5 MW capacity and 18.0 GWh annual energy production; and (4) transmission line 33,000 feet long. The anticipated market for project generation power is a Pacific Northwest utility.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a term of 24 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $125,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before March 31, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before March 31, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 1, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 31, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82–1638 Filed 1–21–82; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of November 23 through November 27, 1981

During the week of November 23 through November 27, 1981, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Exxon Company, U.S.A., November 24, 1981, HFA–0011

Exxon Company, U.S.A. filed an Appeal from a dential by the Acting Director of the Office of Enforcement of the Economic Regulatory Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the documents which were withheld under Exemption 7(A) were properly withheld and that the Director did not adequately justify his conclusion that certain documents should be withheld under Exemtion 4. The important issue that was considered in the Decision and Order was that the justification for withholding documents under Exemption 4 may not be conclusory and generalized.

Hideca Petroleum Corporation, November 24, 1981, HFA–0009

Hideca Petroleum Corporation filed an Appeal from a partial denial by the Director of the Office of Enforcement of a Request for Information which the firm had submitted under the Freedom of Information Act. The DOE determined that the Director properly withheld portions of three documents pursuant to Exemption 5. In considering the Appeal, the DOE rejected Hideca's argument that decontrol of petroleum prices removed these documents from the scope of Exemtpion 5. The DOE also found, however, that the Director's search for responsive documents was inadequate since the search was confined to the Office of Enforcement and was not referred to other offices having responsive documents. Accordingly, the Appeal was granted inpart and the matter was remanded for an additional search for responsive documents.

Hilo Coast Processing Company, BEA–0716; Ka'U Sugar Company, Inc., BEA–0717; Mauna Loa Macadamia Nut Corporation, BEA–0718; Olokele Sugar Company, BEA–0719; Davies Hamakua Sugar Company, BEA–0722; Alexander & Baldwin, Inc., BEA–0723; Alexander & Baldwin, Inc., BES–0723; Waialua Sugar Company, Inc., BEA–0724; Waialua Sugar Company, Inc., BES–0724; Amfac, Inc., BEA–0725; Amfac, Inc., BES–0725; The Nestle Company, Inc., BEA–0726; The Nestle Company, Inc., BEA–0726; The Nestle Company, Inc., BES–0726; November 24, 1981

The petitioners in this proceeding filed Appeals from the constructive denial by the ERA of their applications for designation as producers of petroleum substitutes under the case-by-case provisions of 10 CFR 211.67(a)(5). The DOE held that the July 13, 1981 final rule promulgated by the ERA, which limited participation in the Petroleum Substitutes Entitlements Program to only those applicants which had received designation orders from the ERA prior to January 28, 1981, was not an invalid retroactive rule since it did not divest petitioners of any previously accrued right to entitlements benefits. Accordingly, the Appeals were denied.

Each of the petitioners filed an Application for Stay of a final rule promulgated by the ERA on July 13, 1981 which effectively terminated the Petroleum Substitutes Entitlements Program. In considering the Applications, the DOE determined that petitioners had not demonstrated that they would suffer irreparable injury if the stay were not granted or that there was a strong likelihood of success on the merits. Accordingly, the stay request were denied.

Request for Exception

Golden Gate Petroleum Company, November 25,1981, BEE-1396

Golden Gate Petroleum Company filed an Application for Exception from certain provisions of 10 CFR Part 212, Subpart F, seeking retroactive permission to have passed through all the increased transportation costs it incurred in delivering residual fuel oil to certain purchasers' facilities. In considering Golden Gate's request, the DOE found that the firm had failed to make the threshhold showing necessary for the firm to qualify for prospective exception relief. Accordingly, exception relief was denied.

Motion for Discovery

Pacific Valley Center, November 24, 1981, BRH-1449, BRD-1449

Pacific Valley Center filed Motions for Discovery and Evidentiary Hearing pursuant to 10 CFR 205.199 and 205.198. In its Motions the firm requested that the DOE be required to respond to interrogatories and to produce various documents and to depose witnesses. In considering these requests, the DOE found that the firm's request for discovery did not seek any evidence relevant or material to the disposition of the underlying PRO proceeding, and that the firm's request for an evidentiary hearing did not raise issues which could be best resolved through an evidentiary hearing. Accordingly, the Motions were denied. (The important issues discussed in the Decision and Order are (i) Oral advice and (ii) estoppel.)

Interlocutory Order

Office of Special Counsel, 11/25/81, BRZ-0110

The Office of Special Counsel filed a motion to strike from the record two affidavits filed by Texaco Inc. in connection with a compliance proceeding pending before the Office of Hearings and Appeals. The OHA found that the bulk of the OSC's objections to the affidavits did not disclose prejudice to the OSC resulting from Texaco's submission of those affidavits. The motion was denied in substantial part.

Supplemental Order

Gulf Oil Corporation, 11/24/81, BEX-0180

Gulf filed a petition with the Office of Hearings and Appeals of the Department of Energy in which it requested that a Decision and Order that had been issued to the 341 Tract Unit of the Citronelle Field on March 6, 1981 be modified to provide for an alternate method of refunding the tertiary incentive revenues previously received by the Unit.

After a review of the matter, the DOE determined that there was merit to Gulf's claim. The refund method was therefore restructured to ensure that Gulf would not incur a disproportionate burden. However, in analyzing Gulf's petition, the DOE found that based on the material presented by Gulf in its modification request, the method of implementing interim exception relief to the Citronelle Unit should also be modified. As a result, the method of approving interim relief to the Citronelle Unit was amended. The net effect of the two offsetting adjustments was to increase Gulf's entitlements purchase obligation on a subsequent Entitlements Notice.

In a separate petition, Gulf requested that the Office of Hearings and Appeals recuse itself from further participation in the Citronelle case. The firm claimed that the Office of Hearings and Appeals was biased and no longer could effectively adjudicate the proceeding in a neutral manner.

After a review of the record in the matter, the DOE found that neither the Office of Hearings and Appeals, nor any individual within the office, was biased in this matter. Moreover, a review of the record indicates that the officials involved in the resolution of this case have properly discharged their responsibilities. Accordingly, Gulf's Motion for Recusal was denied.

Dismissals

The following submissions were dismissed without prejudice:

COMPANY NAME AND CASE NO.

Ashland Oil Company, DRO-0084.
Boswell Oil Company, BRD-007, BRR-0013.
Rodriguez Standard, BRW-0088.
Texaco Inc., DEA-0611.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management; Federal Energy Guidelines*, a commmercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 13, 1982.

[FR Doc. 82-1658 Filed 1-21-82; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of December 14 Through December 18, 1981

During the week of December 14 through December 18, 1981, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Phibro Corporation, 12/14/81, HRA-0018

Phibro Corporation filed a Freedom of Information Act (FOIA) Appeal from a determination issued to it by the Acting Director of the Economic Regulatory Administration (Acting Director). In that determination, the Acting Director denied Phibro's request for a copy of a document which contained a series of questions and answers designed to explain certain FEA regulatory policies. The Acting Director determined that the requested document no longer existed and he therefore denied the request pursuant to 10 CFR 1004.7(b)(1)(ii). The Office of Hearings and Appeals conducted an independent search for the document and located a copy in the offices of the Southwest Enforcement District. Accordingly, the matter was remanded to the Acting Director with instructions for him to either release the document or withhold it pursuant to the appropriate statutory and regulatory criteria.

Mapco, Inc., 12/16/81, HFA-0015

Mapco, Inc., filed an Appeal from a partial denial by the Southwest District Manager of the Economic Regulatory Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE upheld the determination that the documents which were withheld pursuant to Exemptions 2 and 5 should not be released to the public. Specifically, pursuant to Exemption 5, the DOE found that drafts of NOPVs and PROs were properly withheld because they are part of the deliberative process. The DOE further held that internal worksheets should be withheld because they contain auditors' opinions which are part of the deliberative process and therefore exempt from mandatory disclosure pursuant to Exemption 5. The DOE also found that certain worksheets and forms should be withheld pursuant to Exemption 2 because their release would assist regulated firms in circumventing the law.

Planning Research Corporation, 12/18/81, HFA-0016

Planning Research Corporation (PRC) filed an Appeal from a partial denial by the Director of Contract Operations Division "A" (Director) of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that portions of one document sought by PRC, the Source Evaluation Board report for a contract solicitation, were properly withheld pursuant to Exemptions 4 and 5. In reaching this conclusion, the DOE determined that the portions withheld under Exemption 5 were predecisional and recommendatory and contained no reasonably segregable factual material. The DOE further determined that the portions of the document that were withheld under Exemption 4 contained information whose release might result in competitive harm to some of the firms which had submitted proposals pursuant to the contract solicitation. In addition, the DOE determined that the Source Selection Official's Selection Statement for the contract solicitation, a document which the Director failed to identify or release in his initial determination, was responsive to PRC's initial FOIA request. Accordingly, the DOE remanded the matter to the Director for a specific determination concerning that document.

Simons & Simons, 12/15/81, BFA-0499

The law firm of Simons & Simons filed an Appeal from a denial by the Director of the DOE Office of Classification of a request for information which the firm had submitted under the Freedom of Information Act. In responding to the request, the Director withheld three documents involving discussions between officials of the DOE and officials of the Government of Algeria, Sonatrach, and other firms, concerning the renegotiation of certain contracts for the importation of liquid natural gas into United States. In considering the Appeal, the DOE found that the documents contain information concerning sensitive negotiations between the United States and a foreign country, the release of which could adversely affect the relationship between those countries, and that the documents are properly classified pursuant to Executive Order No. 12065 and therefore exempt from mandatory public disclosure under Exemption 5 of the FOIA. The Appeal was accordingly denied.

Remedial Orders

Aptos Shell, BRO–1518; Bubble Machine, BRO–1548; Bud Exxon Service, BRO–1482; C. J. King Chevron, BRO–1483; Charlie's Exxon Service, BRO–1484; Crossroad Texaco, BRO–1507; Dimitri' Arco, BRO–1485; Eugene's Chevron Service, BRO–1514; Hughes Burlingame Shell, BRO–1487; Jerry's Shell Service, BRO–1488; Kim's Mobil, BRO–1503; Mowry Chevron Service, BRO–1509; Pacifica Shell Service, BRO–1489; Paul Provost Chevron, BRO–1502; Sandusky's Service, BRO–1516; Shelter Creek Chevron, BRO–1510; Skycrest Shell, BRO–1511; Suds Machine Chevron, BRO–1517; Union Park Service, BRO–1504; William Laraway Shell, BRO–1513, 12/14/81

Aptos Shell, *et al.* objected to Proposed Remedial Orders that were issued to the firms by the DOE office of Enforcement. In the Proposed Remedial Orders, the Office of Enforcement found that the objecting firms had charged prices higher than those permitted by 10 CFR 212.93(a)(2). After considering the firms' objections, the DOE determined that the Proposed Remedial Orders should be issued as final Remedial Orders. The DOE also determined that the Proposed Remedial Orders should be modified to require that payment of the overcharges be deposited into the U.S. Treasury. The important issues discussed in the Decision include: (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price permitted by DOE regulations violates 10 CFR 212.93(a)(2), and (ii) the procedural and substantive validity of 10 CFR 210.62(d)(1).

Requests for Exception

The Crude Company, 12/16/81, BEE–1015

The Crude Company (TCC) filed an Application for Exception in which the firm sought a stay of its obligation to file Forms FEA–P–124–M–O and FEA–P–124–M–1 for the period February 1976 to August 1979 until pending criminal proceedings against the firm and its president are concluded. The forms require reporting firms to report their crude oil transactions by regulatory category and price. In considering the request, the DOE found that the certification requirement of the reports infringed TCC's employees' fifth amendment privileges against self incrimination. The DOE further found, that a stay of the reporting requirement was not warranted since the potential infringement on the fifth amendment privileges of TCC's employees could be remedied by approving exception relief that would permit the firm to appoint an outside agent to prepare and file the reports on TCC's behalf. In addition, the DOE determined that there was nothing improper in requiring a firm to submit regularly required reports while a criminal proceeding is pending against it. Accordingly, TCC was granted exception relief which modified the terms of the certification and permitted someone other than an executive officer to submit the reports on the firm's behalf.

Gulf States Oil & Refining Co., 12/17/81, BEE–1616

On January 28, 1981, Gulf States Oil & Refining Company (Gulf) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program) in which the firm requested that it be issued entitlements for the crude oil which it purchased to establish a starting inventory for its new refinery. In considering the request, the DOE found that the operation of the Entitlements Program with respect to Gulf's initial receipts of inventory crude oil produces a grossly inequitable result by inordinately increasing the firm's crude oil acquisition costs. The DOE therefore determined that Gulf should be issued additional entitlements with a value of $426,957.11 to compensate the firm for the value of entitlements it would have been issued had it claimed as runs to stills for purposes of 10 CFR 211.67(a)(1) the crude oil used to establish a necessary, permanent inventory. Accordingly, exception relief was granted in part.

Michek Oil Company, 12/14/81, HEE–0001

On October 14, 1981, Michek Oil Company filed an Application for Exception from the reporting requirements set forth in Form EIA–9A. Michek claimed that it should not be required to file Form EIA–9A because the information it would provide is of no use to the DOE. The DOE rejected this claim and pointed out that the information supplied in Form EIA–9A enables it to monitor the supply and price of No. 2 heating oil. The DOE further stated that a request for exception may only be granted to prevent a serious hardship or gross inequity. Since Michek did not even claim that it satisfied that standard, the DOE determined that the firm's exception request should be denied.

Transcontinental Oil Corporation, 12/9/81, BEE–1675

Transcontinental Oil Corporation (TOC) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D, in which the firm sought permission to sell the crude oil produced during 1975 for the benefit of the working interest owners from the Knoxo Field Unit at prices in excess of the applicable ceiling price levels. The approval of TOC's request would have the effect of relieving the firm of the obligation to refund overcharges pursuant to the provisions of a Remedial Order issued to the firm by the DOE. In considering the firm's request, the DOE found that the overall financial position of TOC was excellent. The DOE therefore concluded that requiring TOC to repay the overcharges would not result in an irreparable injury to the firm. According, the DOE determined that exception relief should be denied.

Motion for Modification and/or Rescission

Hillcrest Automotive Service, 12/14/81, HRR–0013, HRW–0001

The Office of General Counsel submitted motions to modify the refund and interest provisions of a Proposed Remedial Order which the Western District of Enforcement issued to Hillcrest Automotive Service on October 30, 1981. In the Proposed Remedial Order, the Western District found that Hillcrest Automotive Service had overcharged its purchasers of motor gasoline by a total of $636.56. Since Hillcrest did not object either to the Proposed Remedial Order or to the request for modification, the DOE concluded that the Proposed Remedial Order should be issued as a final Order with the modifications proposed by the Office of General Council.

Supplemental Orders

K. R. "Ken" Rearick, d/b/a Clearview Gulf Service Center, 12/14/81, HRX–0005

The Economic Regulatory Administration (ERA) filed an Application for Rescission of a Remedial Order issued to K. R. "Ken" Rearick d/b/a Clearview Gulf Center on November 5, 1981. *See K. R.* "Ken" Rearick d/b/a Clearview Gulf Service Center, 9 DOE ——, No. BRO–0327 (November 5, 1981). In the Remedial Order, OHA denied the Statement of Objections filed by the firm on the grounds that Rearick had overcharged his gasoline customers, thereby violating the provisions of 10 CFR 212.93(a). In considering the Application for Rescission, the DOE determined that since Rearick had signed a Consent Order with the ERA prior to the issuance of the Remedial Order, the matter had been settled between the two parties, making the Decision and Order moot. The OHA pointed out., however, that the failure of both parties to notify OHA of the change of status in the case while it was still pending before the Office resulted in the waste of administrative resources and undermined the integrity of the adjudicatory process. Nevertheless, ERA's Application for Recission was granted.

San Ann Service, Inc., 12/14/81, BCX–0215

On April 8, 1981, the Federal Energy Regulatory Commission (FERC) issued an Order affirming in part and remanding in part a decision which the DOE issued to San Ann Service, Inc., on December 5, 1979. In the December 5 Decision, the DOE denied an Application for Exception which San Ann had filed, and ordered Kerr-McGee Corporation to make restitution to Marathon Oil Company and to Chevron U.S.A., Inc. for motor gasoline which those firms had

supplied to San Ann pursuant to a July 13, 1979 Interim Order. The April 8, 1981 FERC Order upheld the DOE determination denying San Ann exception relief, but remanded the case to the DOE for consideration of two issues: (1) does Kerr-McGee "control" San Ann within the meaning of 10 CFR 211.51; and (2) does the balance of the equities favor requiring Kerr-McGee and/or San Ann to return to Marathon and Chevron the gasoline they sold to San Ann under the July 13, 1979 Interim Order at the prices at which it was sold to San Ann or at some other prices. In considering the issues which were remanded by the April 8, 1981 FERC Order, the DOE determined that San Ann and Kerr-McGee should be treated as a single "firm" under 10 CFR 211.51. The DOE also determined, however, that restitution should not be made to Chevron and Marathon for the gasoline which San Ann received pursuant to the July 13, 1979 DOE Interim Order.

Dismissals

The following submissions were dismissed without prejudice:

Company name	Case No.
Gulf States Oil & Refining Company	BEN-0085.
Mid-America Refining Co., Inc.	BER-0063.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 13, 1982.

[FR Doc. 82-1659 Filed 1-21-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve supply of the following materials:

Contract Number S-IA-115, 0.003 grams of plutonium-244 as oxide, for use as standard reference material, and 54.1 grams of plutonium, 78.8 grams of natural uranium, 6.5 grams of uranium containing approximately 0.046 grams of U^{235}, and 87.3 grams of thorium, in the form of mixed oxide.

Contract Number S-IA-123, 0.003 grams of plutonium-244 as oxide, for use as standard reference material, and a mixed oxide containing 54.1 grams of plutonium, 78.8 grams of natural uranium, 6.5 grams of uranium containing 0.046 grams of U^{235}, and 87.3 grams of thorium.

These materials are to be utilized by the IAEA in connection with international safeguards efforts.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than February 8, 1982.

For the Department of Energy.

Dated: January 18, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-1540 Filed 1-21-82; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Korea Concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the sale of the following materials:

Contract Number S-KO-12, for the Korea Advanced Energy Research Institute, for use as standard reference material, 1 gram of uranium, enriched to 1.53% in U-235, 1 gram of uranium, enriched to 5.01% in U-235, 1 gram of uranium, enriched to 10.19% in U-235, 1 gram of uranium, enriched to 20.01% in U-235, 1 gram of uranium, enriched to 49.7% in U-235, 1 gram of uranium, enriched to 85.14% in U-235, and 1 gram of uranium, enriched to 97.66% in U^{235}.

In accordance with section 131 of the Atomic Energy of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than February 8, 1982.

For the Department of Energy.

Dated: January 18, 1982.

Harold D. Bengeldorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-1541 Filed 1-21-82; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the following retransfer:

RTD/EU (SW)-64, from Sweden to the Federal Republic of Germany, two irradiated fuel particles containing 2.887 grams of uranium, enriched to 1.14% in U-235, and two unirradiated fuel particles containing 3.616 grams of uranium, enriched to 19.61% in U-235. These fuel particles are to be transferred for post-irradiation examination and comparison.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than February 8, 1982.

For the Department of Energy.

Dated: January 18, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-1542 Filed 1-21-82; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under export license XU08535, granted

by the U.S. Nuclear Regulatory Commission on December 30, 1981.

The subsequent arrangement under the above mentioned license involves supply of 2.222 kilograms of depleted uranium (0.2% U–235) to the Universidad Nacional Autonoma de Mexico, Mexico City, under Contract Number S–IA–116, for use by the Department of Physics in the study of the physical and chemical properties of uranium hexafluoride.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than February 8, 1982.

For the Department of Energy.

Dated: January 18, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82–1543 Filed 1–21–82; 8:45 am]

BILLING CODE 6450–01–M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Norway Concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the following retransfer:

RTD/EU(NO)–35, from Norway to Denmark, one irradiated fuel element containing 10.429 kilograms of uranium, enriched to 1.21% percent in U–235, and 103 grams of produced plutonium, for post irradiation examination. It is planned to subsequently transfer the material to the United Kingdom for final disposal in accordance with arrangements between the United States and the Euratom Supply Agency.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than February 8, 1982.

For the Department of Energy.

Dated: January 18, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82–1544 Filed 1–21–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–2034–4]

Availablility of Environmental Impact Statements

AGENCY: Office of Federal Activities, EPA.

INFORMATION CONTACT: Ms. Kathi Wilson (202) 245–3006.

ACTION: Notice.

EISs Filed: January 11–15, 1982.

Comment Due Dates: Drafts—March 8, 1982; Finals—February 22, 1982.

Corps of Engineers: Report—Pamlico Sound/Beaufort Harbor, Gallant Channel Maintenance, Carteret County, North Carolina (EPA EIS #820013)

DOC: National Oceanic and Atmospheric Administration (NOAA): Draft—Bering Sea/Aleutian Islands King Crab, FMP, Alaska (EPA EIS #820019)

DOC: NOAA: Draft—New Hampshire Coastal Program, Ocean/Harbor Segment, Rockingham County, New Hampshire (EPA EIS #820018)

EPA: Region 3: Draft: Rehoboth Beach WWT Management Facilities Grant, Sussex County, Delaware; Extended Review 3–15–82 (EPA EIS #820014)

Department of Housing and Urban Development: 104H: Final—Phoenix Hill Development, CDBG, Jefferson County, Kentucky (EPA EIS #820021)

Nuclear Regulatory Commission: Final—Washington Nuclear Project Number 2, License, Benton County, Washington (EPA EIS #820015)

USDA: Forest Service (FS): Draft—Arapaho and Roosevelt National Forests Management Plan, Colorado; Extended Review 4–26–82 (EPA EIS #820017)

USDA: FS: Final—Blue Gouge Mine Operating Plan, Eldorado National Forest, El Dorado County, California (EPA EIS #820016)

USDA: Rural Electrification Administration: Final—Elm Mott/Whitney 345 kV Transmission Line, McLennan, Bosque and Hill Counties, Texas (EPA EIS #820020)

Extended Review: USDA: Revised Draft—Soil and Water Resources Conservation Act, 1981 Program—published FR 11–6–81; DUE 1–29–82 (EPA EIS #810909)

Mr. Louis Cordia,

Acting Director, Office of Federal Activities.

Dated: January 19, 1982.

[FR Doc. 82–1066 Filed 1–21–82; 8:45 am]

BILLING CODE 6560–37–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–651–DR]

California; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of California (FEMA–651–DR), dated January 7, 1982, and related determinations.

DATED: January 12, 1982

FOR FURTHER INFORMATION CONTACT: Sewell H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. (202) 287–0501 *Notice:* The Notice of a major disaster for the State of California dated January 7, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 7, 1982.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance.)

Humboldt County for Public Assistance only.

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82–1561 Filed 1–21–82; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL HOME LOAN BANK BOARD

Buffalo Savings and Loan Association, Houston, Texas; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 406(c)(2) of the National Housing Act, as amended (12 U.S.C. 1729(c)(2)), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as receiver of Buffalo Savings and Loan Association, Chicago, Illinois, effective January 15, 1982.

Dated: January 18, 1982.

James J. McCarthy,

Acting Secretary.

[FR Doc. 82-1643 Filed 1-21-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, February 4, 1982
Thursday, February 11, 1982
Thursday, February 18, 1982
Thursday, February 25, 1982

These meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW, Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW, Washington, D.C. 20415 (202-632-9710).

January 18, 1982.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 82-1533 Filed 1-21-82; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81N-0241]

Determination of Ambient Level Concentrations of Chemical Compounds Related to Emissions From Various Laboratory Sources, Federal Building No. 8; Availability of Report

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of a report entitled "The Sampling Quantification of Emissions from Various Laboratory Sources and the Determinations of Ambient Level Concentations," dated June 1981. The report addresses the types of chemicals used in Federal Building No. 8 and describes methods used to sample fume hood exhaust stack emissions, and the samplings at several ambient receptor sites nearby. Based on the information contained in the report, emissions from Federal Building No. 8 do not appear to have an adverse impact upon ambient air quality in the area around the building and therefore do not have a significant effect on the air supply of adjacent buildings.

ADDRESS: A copy of the report is available for review at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John T. Snell, Division of Management Services (HFA-246), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4440.

SUPPLEMENTARY INFORMATION: In the fall of 1980, FDA tested stack emissions from fume hoods at the (FDA laboratory (Federal Building No. 8) at 200 C St. SW., Washington, DC. The emissions were tested for 10 hazardous compounds (acetonitrile, benzene, carbon tetrachloride, chloroform, 1,2-dichloroethane, methylene chloride, pyridine, toluene, vinyl chloride, and xylene) to determine the concentration of the compounds in fume hood exhausts. In addition to specific emission discharge measurements, nearby ambient receptor stations were monitored in an attempt to quantify the impact of the emissions on the ambient receptors. Because Federal Building No. 8 is located close to the Capitol and is adjacent to several major office buildings, concern had been expressed that compounds being exhausted from the FDA laboratory might be adversely affecting the ambient air drawn into the ventilating systems of nearby buildings. Ambient receptors were positioned at street level in several locations and at the roof level of the House Annex No. 2 building which is immediately south of Federal Building No. 8. Sampling continued for 10 days, 10 hours per day during daylight hours. Samples collected each day were analyzed the following day on a gas chromatograph. Chemical compound usage was also continuously monitored at each fume hood. Although fume hood exhaust emissions were detectable at ambient receptors, under some conditions, both the fume hood exhaust stack emission concentrations and the ambient receptor concentrations remained below 10 percent of the threshold limit values even under worst case conditions. From an air quality standpoint, the FDA laboratory facility did not appear to have an adverse impact on adjacent buildings.

A copy of the report is available for review at the Dockets Management Branch (HFA-305) (address above), between 9 a.m. and 4 p.m., Monday through Friday. Copies may be purchased from that office for $27.60 for each copy. Payment shall be made by check or money order payable to "Food and Drug Administration".

Dated: January 12, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-1545 Filed 1-21-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N-0335]

Drug Experience Report, Form FDA 1639; Availability of Revised Form

AGENCY: Food and Drug Administration.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the revised Drug Experience Report, Form FDA 1639, and instructions for completion of the form. This form is used by manufacturers and by health care professionals to report adverse drug experiences to FDA.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857; requests for single copies of the revised form to Judith Jones, Bureau of Drugs (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

EFFECTIVE DATE: The revised Form FDA 1639 should be used immediately. The previous Form FDA 1639a is obsolete.

FOR FURTHER INFORMATION CONTACT: Judith K. Jones, Bureau of Drugs (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4580.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of the revised Drug Experience Report, Form FDA 1639. This form is submitted by drug manufacturers to the agency, as required by 21 CFR 310.300, 310.301, and 431.60, and voluntarily by others, as necessary.

Revised Form FDA 1639, Drug Experience Report, differs from Form FDA 1639a, which previously has been used. The revised form is intended to make reports of adverse drug reactions more useful for analytic purposes. Because the format and content of the form is substantially changed, the revised form renders previous editions obsolete and includes a notation to that effect.

The revised form contains additional data elements necessary for both clarifying the seriousness of a drug experience and determining if a causal relationship between drug use and reaction exists. Instructions printed on the back of the revised form will further increase its usefulness.

Comments regarding the format or content of revised Form FDA 1639 should be addressed to the Dockets Management Branch (HFA-305) (address above) where a copy of the form has been placed on file for public display. Such comments will be considered in determining whether further revisions in the form are necessary. Two copies of all comments shall be submitted, except that individuals may submit single copies of comments. Comments should be identified by the docket number found in brackets in the heading of his document. Comments received by the agency may be seen in the office of the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Requests for single copies of the revised form should be addressed to Judith K. Jones (address above).

Supplies of the form are available on written request from the Public Health Service Forms and Publications Distribution Center (HFA-268), 12100 Parklawn Dr., Rockville, MD 20857.

This revised form has been approved and cleared for use by the Office of Management and Budget.

Dated: January 15, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-1549 Filed 1-21-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81D-0342]

Uniform Sampling Procedures for In-Shell Domestic and Imported Pistachio Nuts; Availability of Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of FDA Compliance Policy Guide 7112.08, which establishes (1) revised uniform sampling procedures for both domestic and imported in-shell pistachio nuts based on results of kernel crackout/discard analysis and (2) sampling as well as assay criteria for both domestic and imported shelled pistachio nuts.

ADDRESS: Written comments on the revised uniform sampling procedures for in-shell pistachio nuts and on the sampling and assay criteria for shelled pistachio nuts and requests for single copies of FDA Compliance Policy Guide 7112.08 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: The current action level for aflatoxin-contaminated pistachio nuts specifies a crackout/discard procedure for the examination of imported in-shell pistachio nuts. FDA published the compliance guide for pistachio nuts before the establishment of a significant domestic industry, and as a result, the crackout/discard procedure of kernel analysis of lots of in-shell nuts has not been used for domestic pistachio nuts.

Because there is now a significant domestic pistachio nut industry, FDA is revising Compliance Policy Guide 7112.08 to include a crackout/discard analysis of the kernels for lots of domestic in-shell pistachio nuts. The agency has also amended Compliance Policy Guide 7112.08 to provide sampling and assay criteria for both domestic and imported lots of shelled pistachio nuts. Accordingly, the following analyses apply for in-shell lots of pistachio nuts: (1) Analysis of entire sample consisting of shells and kernels for aflatoxin, with aflatoxin being calculated on a kernel weight basis in accordance with applicable methods outlined in the current edition of the Official Methods of Analysis of the American Association of Analytical Chemists, and (2) analysis of a second sample consisting of moldy and nonmoldy kernels remaining after crackout and discard of the obviously inedible nuts when the in-shell analysis reveals aflatoxin in excess of 20 micrograms per kilogram (μg/kg). The agency will base regulatory action against in-shell lots of pistachio nuts on the results of the kernel crackout/discard analysis when original and check analysis show aflatoxin above 20 μg/kg.

For lots of shelled pistachio nuts, the analysis will consist of the entire sample, including those kernels that have an obviously inedible appearance. FDA will take regulatory action against shelled lots of pistachio nuts when original and check analysis show aflatoxin above 20 μg/kg.

Requests for single copies of revised Compliance Policy Guide 7112.08 should reference the docket number found in brackets in the heading of this document and should be submitted in writing to the Dockets Management Branch (address above).

Interested persons may submit to the Dockets Management Branch written comments (preferably two copies and

identified with the docket number found in brackets in the heading of this document) regarding the revised compliance policy guide. Received comments are available for examination in the office above, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 15, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-1548 Filed 1-21-82; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of Alabama State Plan Amendments Requiring Copayments for Drugs for Certain Categorically Needy Groups

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

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on March 9, 1982 in Atlanta, Georgia to reconsider our decision to disapprove Alabama State plan amendments requiring copayments for drugs for certain categorically needy groups.

CLOSING DATE: Requests to participate in the hearing as a party must be received by February 8, 1982.

FOR FURTHER INFORMATION, CONTACT: Stanley Krostar, Hearing Officer, Bureau of Program Policy, 1-G-5 East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207; Telephone: (301) 594-8511.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to deny two Alabama State plan amendments.

Section 1116(a) of the Social Security Act and 45 CFR Parts 201 and 213 establish Departmental procedures that provide an administrative hearing for reconsideration of a denial of a State plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The notice to Alabama announcing an administrative hearing to reconsider our denial of two State plan amendments reads as follows:

January 20, 1982.

Mr. Henry C. Vaughn, Jr.,
Acting Commissioner, Alabama Medicaid Agency, 2500 Fairlane Drive, Montgomery, Alabama 36130.

Dear Mr. Vaughn: This to advise you that your letter of December 17, 1981 requesting a reconsideration of the decision to disapprove Alabama State plan amendments 80-13 and 80-18 was received on December 21, 1981. You have requested a reconsideration of the issue of whether the provisions in these plan amendments with respect to the application of drug copayment requirements to patients in nursing homes conform to the requirements for approval under the Social Security Act and pertinent Federal requirements.

I am scheduling a hearing on your request to be held on March 9, 1982 at 10:00 a.m. in the 7th floor conference room, 101 Marietta Tower, Spring and Marietta Streets, Atlanta, Georgia. If this date is not satisfactory, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar to serve as the presiding official. Please let him know if these arrangements present any problems. He can be reached on 301-594-8511.

Sincerely yours,

Carolyne K. Davis, Ph.D.,
Administrator.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: January 20, 1982.

Carolyne K. Davis

Administrator, Health Care Financing Administration.

[FR Doc. 82-1754 Filed 1-21-82; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Statement of Organizations, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685-92, February 25, 1970, as amended most recently at 45 FR 76518, November 19, 1980), is amended to reflect a realignment of functions between and retitling of two divisions in the Bureau of Drugs. The Division of Drug Product Quality is retitled the Division of Drug Quality Evaluation. The Division of Drug Manufacturing is retitled the Division of Drug Quality Compliance.

These changes reflect a centralization of drug quality surveillance functions into the Division of Drug Quality Evaluation while drug quality compliance functions are centralized into the Division of Drug Quality Compliance. This action will highlight and separate the surveillance functions which evaluate and monitor drug quality, from the compliance functions which involve case development and other regulatory actions based on data and trends from surveillance activities. Functional statements for these divisions have been revised to reflect their new responsibilities.

The realignment is necessary to strengthen the Bureau's capability to handle regulatory actions and to improve drug quality surveillance programs. This realignment also reflects deemphasis on mandatory certification programs and increased emphasis on voluntary certification programs.

Section HF-B, Organization and Functions, is amended as follows:

1. Delete subparagraph (1-4-ii) Division of Drug Product Quality in its entirety and substitute a new paragraph reading as follows:

(1-4-ii) *Division of Drug Quality Evaluation (HFCA).* Develops and directs drug quality evaluation programs, including surveillance and mandatory and voluntary drug certification; coordinates with other compliance divisions as necessary.

Monitors and evaluates nationwide drug product quality through the development and maintenance, in coordination with Bureau systems design specialists, of information systems containing data about drug products and manufacturers and problems that occur with both.

Evaluates drug product quality data for trends and other uses and identifies new areas for potential FDA responsibility or action.

Directs such field actions as investigations and inspections in response to problems identified by drug quality evaluation programs; recommends, directs, or coordinates case development and compliance activities resulting from these actions.

Coordinates with other Bureau components to exchange drug quality data and advise them on drug quality evaluation programs.

2. Delete subparagraph (1-4-iv) Division of Drug Manufacturing in its entirety, and substitute a new paragraph reading as follows:

(1–4–iv) *Division of Drug Quality Compliance (HFGC).* Develops the basic strategy for and approves, directs, and monitors drug quality compliance; coordinates drug quality compliance program strategy with other compliance divisions as necessary.

Develops and coordinates Agency compliance policy for enforcement of the law with regard to drug quality assurance.

Evaluates field report submissions; recommends, directs, and/or coordinates case development and contested case assistance in the handling of compliance actions regarding drug quality assurance.

Develops, coordinates, reviews, and revises Current Good Manufacturing Practice (CGMP) regulations and other regulations concerning drug product quality and provides for their uniform interpretation.

Acts as Bureau focal point for information on compliance with CGMP for New Drug Application (NDA's), Abbreviated New Drug Applications (ANDA's), supplements, and drug certification evaluations.

Provides expertise on requirements for compliance with CGMP's including education and information activities in conjunction with other Agency units, trade associations, and academic groups to promote a better understanding of the requirements and objectives of the laws and regulations regarding CGMP and to encourage compliance on a voluntary basis.

Dated: January 12, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82–1521 Filed 1–21–82; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

New Mexico & Colorado, San Juan River Regional; Coal Team Meeting

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Public Hearing and Opening of a Comment Period.

SUMMARY: The New Mexico State Office of the Bureau of Land Management advises the public that hearings will be held to receive oral and written comments in review of both the Department of Energy Regional Coal Production Goals adopted by the Department of Interior on November 18, 1981 and the preliminary regional leasing targets established by the Department of Interior on January 13, 1982. The hearings will be held in Albuquerque and Farmington, New Mexico. Individuals wishing to comment orally at the public hearings are asked to provide written copies of their remarks if possible. Oral and written comments will be accepted at the public hearings. Written comments should be addressed to the New Mexico State Director at the address given below. This **Federal Register** notice is in accordance with 43 CFR 3420.3–2(f)(2).

DATE: Written comments will be accepted until close of business, February 26, 1982. Public hearings will be held in Albuquerque, New Mexico on February 23, 1982 and in Farmington, New Mexico on February 24, 1982. The hearings will start at 9:30 a.m.

ADDRESS: Written comments should be addressed to Bureau of Land Management, New Mexico State Director, P.O. Box 1449, Santa Fe, New Mexico 87501. The public hearing will be held in Albuquerque, New Mexico, at the Holiday Inn-Midtown, 2020 Menaul, NE and in Farmington, New Mexico, at the Farmington Civic Center, 212 W. Arrington.

FOR FURTHER INFORMATION CONTACT: Gene Day, San Juan River Project Manager, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Telephone (505) 988–6226.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) issued updated national and regional coal production goals on January 26, 1981. These coal production goals are intended to guide the Department of the Interior (DOI) and the Regional Coal Team (RCT) in setting a Federal leasing target for the San Juan River Federal Coal Production Region.

DOE Final Production Goals San Juan River Region

[Million tons annually]

	1985	1990	1995
Low	31.9	54.5	57.6
Medium	35.4	57.6	61.2
High	40.7	58.9	63.7

The coal production goals developed by DOE are provided at three levels of energy consumption growth rate—low, medium and high. Due to the uncertainties regarding coal consumption over the next 10–15 years, especially for electric utilities and synthetic fuels, the range in the goals is substantial.

The Federal Coal Management Regulations (43 CFR 3420.3–2(d)) require that the RCT consider the regional situation and recommend adjustments to the regional production goals as needed.

In accordance with 43 CFR 3420.3–2(d) on September 2, 1981, the San Juan River Regional Coal Team unanimously recommended that the Department of Energy Regional Coal Production Goal for 1985, 1990, and 1995 contained in the 1980 Biennial Update be adopted without modification. On November 18, 1981 the Department of the Interior adopted the Department of Energy's production goals as they pertain to the San Juan River Coal Production Region.

During the December 2, 1981 meeting, the San Juan River Regional Coal Team recommended that targets in the range of 0.8 to 1.5 billion tons are feasible based on the information available to the RCT. Garrey Carruthers, Assistant Secretary of the Interior for Land and Water Resources has considered this recommendation and has established as a preliminary leasing target 1.2 to 1.5 billion tons. This preliminary leasing target is based on the following information:

The formal expressions of interest total 1.6 billion tons after accounting for overlaps and withdrawn nominations.

A target of 500 to 700 million tons would satisfy a one-to-one relationship of leasing to production.

There are 26 preference right lease applications (PRLA's) within the region encompassing about two billion tons of reserves. A relatively small fraction of production from these PRLA's is included in the baseline used to calculate the 500–700 million ton one-to-one target. The RCT has indicated that tracts containing 800 million tons of PRLA reserves may be capable of being in production status after 1990.

The State of New Mexico has concerns over a higher leasing level.

In order to respons to the demand for reserves and to ensure competition, it is necessary to lease at a level greater than that indicated by a one-to-one relationship. Therefore, to provide for entry by possible new producers and to provide for sufficient Federal leasing to allow the market to operate efficiently, a preliminary leasing target of 1.2 to 1.5 billion tons is established.

The purpose of this notice is to call for public comment on the adoption by Department of Interior of the Deparment of Energy coal production goals for the San Juan River Coal Production Region and on the Department of Interior established preliminary leasing target of 1.2 to 1.5 billion tons of coal for the San Juan River Coal Production Region. Comments received will be provided to the Department of Interior to assist in adopting a final regional leasing target for the San Juan River Coal Production Region.

Charles W. Luscher,

State Director.

[FR Doc. 82–1566 Filed 1–21–82; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

Draft General Management Plan/ Development Concept Plan for Rio Grande Wild and Scenic River; Brewster and Terrell Counties; Texas

Pursuant to the National Environmental Policy Act of 1969, Title 40 of the Code of Federal Regulations, and Part 516 of the Departmental Manual, the National Park Service has prepared a Draft General Management Plan/Development Concept Plan for Rio Grande Wild and Scenic River, Brewster and Terrell Counties, Texas.

An Environmental Assessment/ General Management Plan and a Draft Land Acquisition Plan for Rio Grande Wild and Scenic River were distributed and made available by publication in the **Federal Register** of February 19, 1981, and a News Release in local news media sources. Based on public review input received and on management objectives, a Finding of No Significant Impact was completed and an alternative selected. Alternative III was selected as the primary alternative which would best provide a management strategy to insure all reasonable ways of achieving the intent of Congress and the management objectives of Rio Grande Wild and Scenic River, providing for a balance of visitor opportunities and resource protection. The Finding of No Significant Impact was distributed and made available by publication in the **Federal Register** of August 18, 1981, and a News Release in local news media sources.

Copies of the Draft General Management Plan/Development Concept Plan are available at the following locations:

Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Post Office Box 728, Santa Fe, New Mexico 87501.

Big Bend National Park, Big Bend National Park, Texas 79834.

Anyone wishing to provide comments on the Draft General Management Plan/ Development Concept Plan should provide them to the Superintendent, Big Bend National Park, at the address provided above, by February 26, 1982.

Following public review of the Draft General Management Plan/ Development Concept Plan, the Final General Management Plan/ Development Concept Plan will be prepared and implemented.

Dated: January 15, 1982.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 82-1650 Filed 1-21-82; 8:45 am]

BILLING CODE 4310-70-M

Reservations System Nationwide; Solicitation of Proposals

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20) public notice is hereby given that the Department of the Interior through the Director, National Park Service is soliciting proposals for the development of a financially self sufficient reservations system by which visitors to various units of the National Park System will be able to arrange overnight accommodations of any and all types by advance reservations.

The National Park Service proposes to use either applicable clauses set forth in Part 1-7, Contract Clauses, of the Federal Procurement Regulations (41 CFR Part 1-7), or a concessions contract format for the operation of a nationwide accommodations reservations system. The type of contract awarded will be determined after evaluation of the proposals. Offerors are encouraged to submit alternate proposals incorporating FPR provisions or concession contract provisions. A number of the desired performance criteria will be identified in the Request for Proposals. The National Park Service desires that any initial system be capable of being developed within twelve (12) months and that a nationwide program be finalized within (04) years. Proposals will be due on 4 June 1982.

For information as to the requirements, parties should contact the National Park Service, Pension Building, 440 G Street, NW., Room 314, Contracting and General Services Division, Washington, D.C. 20243. Inquiries should identify RFP number 82-16.

Russell E. Dickenson,

Director, National Park Service.

[FR Doc. 82-1651 Filed 1-21-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier; Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: American Western Corporation, 355 Boyce-Greeley Bldg., Sioux Falls, South Dakota 57102.

2. Wholly-owned subsidiary which will participate in the operations and address: AWC Transportation Corporation, 355 Boyce-Greeley Bldg., Sioux Falls, SD 57102.

1. Parent corporation and address of principal office: Babcock Lumber Company, 2220 Palmer St., Pittsburgh, PA 15218.

2. Wholly-owned subsidiary which will participate in the operations and State of incorporation: Forest Products Trucking, Inc., Pennsylvania.

1. My name is Vernon Bingham, and I own 45% of the outstanding common capital stock of Bingham Sand and Gravel, Inc., my wife Lucille E. Bingham owns 45% of the outstanding common capital stock of Bingham Sand and Gravel, Inc., and my son, Larry L. Bingham, owns 10% of the outstanding common capital stock of Bingham Sand and Gravel, Inc.

Further, I own 20% of the outstanding common capital stock of Bingham Transportation, Inc., my wife Lucille E. Bingham owns 20% of the outstanding common capital stock of Bingham Transportation, Inc., and my son, Larry L. Bingham, owns 60% of the outstanding common capital stock of Bingham Transportation, Inc.

2. The wholly-owned subsidiaries that will participate in the operations and their states of incorporation are as follows:

(a) Bingham Sand and Gravel, Inc., 2005 East Avenue, Baxter Springs, Kansas 66713, a Kansas Corporation.

(b) Bingham Transportation, Inc., 2005 East Avenue, Baxter Springs, Kansas 66713, a Kansas Corporation.

1. Parent Corporation and address of principal office: Borg-Warner Corporation, 200 South Michigan Avenue, Chicago, IL 60604.

2. Wholly-owned subsidiaries which will participate in the operations:

Baker Industries, 1633 Littleton Road, Parsippany, NJ 07054.

Borg-Warner Acceptance Corp., One IBM Plaza, Chicago, IL 60611.

Borg-Warner Chemicals, Inc., International Center, Parkersburg, WV 26101.

Borg-Warner Central Environmental Systems Inc., 301 Filbert Street, Elyria, OH 44036.

Borg-Warner Health Products, Inc., 2429 Schuetz Road, Maryland Heights, MO 28226.

Borg-Warner International, 200 South Michigan Avenue, Chicago, IL 60604.

Borg-Warner Investment Corporation, 200 South Michigan Avenue, Chicago, IL 60604.

Borg-Warner Central Environmental Systems Inc., 5005 Interstate Drive, No., Norman, OK 73069.

1. Parent Company, Carnation Company, 5045 Wilshire Blvd., Los

Angeles, CA 90036 (Incorporated State of Delaware).

Carnation Corp. includes operating divisions who operate under the name of Trenton Foods, Seaboard Container, Herff-Jones.

2. Carnation Company wholly-owned subsidiaries are as follows (all incorporated in the State of Delaware):

(i) Dayton Reliable Tool, Inc., 5045 Wilshire Blvd., Los Angeles, CA 90036.

(ii) McGraw Colorgraph, Inc., 5045 Wilshire Blvd., Los Angeles CA 90036.

(iii) Contadina Foods, Inc., 5045 Wilshire Blvd., Los Angeles CA 90036.

(iv) Carnaco Transport, Inc., 5045 Wilshire Blvd., Los Angeles CA 90036.

1. Parent corporation and address of principal office: Z. Ellis Roofing Co., Inc., 2201 Richland St., Kenner, LA 70062.

2. Wholly-owned subsidiaries (all incorporated in State of Louisiana): (i) Ellis Enterprises, (ii) Ellis Leasing Co., (iii) 2201 Supply, Inc.

1. Parent corporation and principal place of business: Manville Corporation, Ken-Caryl Ranch, Denver, Colorado 80217.

2. Wholly-owned subsidiaries which will participate in the operations:

(i) Manville Service Corporation, Ken-Caryl Ranch, Denver, Colorado 80217.

Incorporated in State of Delaware.

(ii) Manville Forest Products Corporation, P.O. Box 488, West Monroe, Louisiana 71291.

Incorporated in State of Delaware.

(iii) Manville Building Materials Corporation, Ken-Caryl Ranch, Denver, Colorado 80217.

Incorporated in State of Delaware.

(iv) Manville Products Corporation, Ken-Caryl Ranch, Denver, Colorado 80217.

Incorporated in State of Delaware.

(v) Johns-Manville Sales Corporation, Ken-Caryl Ranch, Denver, Colorado 80217.

Incorporated in State of Delaware.

1. Parent Corporation and address of principal office: City Investing Company, 59 Maiden Lane, New York, New York 10038.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(I) Alma Plastics Company (Michigan).

(II) Hayes International Corporation (Delaware).

(III) Rheem Manufacturing Company (Delaware).

(IV) City Investing International, Inc. (Delaware).

(V) Rheem International, Inc. (Delaware).

(VI) Rafim Industries Inc. (Delaware).

(VII) Rheem Canada Limited (Canada).

(VIII) Rheem Textile Systems, Inc. (New York).

(IX) Southern California Financial Corporation (California).

(X) Southern California Savings and Loan Association (California).

(XI) The Home Group, Inc. (Delaware).

(XII) The Home Insurance Company (New Hampshire).

(XIII) City Insurance Company (New Jersey).

(XIV) Scott Wetzel Service, Inc. (Washington).

(XV) Federal Home Life Insurance Company (Indiana).

(XVI) Home Capital Services, Inc. (Delaware).

(XVII) PHF Life Insurance Company (Michigan).

(XVIII) Sterling Forest Corporation (New York).

(XIX) The Home Indemnity Company (New Hampshire).

(XX) The Home Insurance Company of Illinois (Illinois).

(XXI) The Home Insurance Company of Indiana (Indiana).

(XXII) The Home Reinsurance Company (New Hampshire).

(XXIII) Thico Plan, Inc. (Delaware).

(XXIV) Uarco Incorporated (Delaware).

(XXV) Drummond Business Forms, Limited (Canada).

(XXVI) World Color Press, Inc. (Delaware).

1. My name is John J. McQueeney, and my business address is 409 Sixth, Osawatomie, Kansas 66064.

Myself and my wife, Deborah A. McQueeney, own 100% of the stock of the subsidiaries named below as joint tenants with right of survivorship and not as tenants in common.

2. The wholly-owned subsidiaries that will participate in the operations and their states of incorporation are as follows:

(a) Kenneth R. Johnson, Inc., 409 Sixth Street, Osawatomie Kansas 66064, a Kansas Corporation.

(b) Premier Trucking Company, Inc., with business address of 409 Sixth Street, Osawatomie, Kansas 66064, a Kansas Corporation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-1587 Filed 1-21-82; 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** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be

construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–13

Decided: January 12, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 145552, (Sub-2), filed January 5, 1982. Applicant: HEDGE & HERBERG, INC., Lyon & Washington, P.O. Box 98, Big Stone City, SD 57216. Representative: Gayle E. Hedge (same address as applicant), (605) 862–8143. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Big Stone Cheese, of Big Stone City, SD.

MC 150702, filed December 29, 1981. Applicant: HERITAGE EXPRESS COMPANY, 5300 Richmond Rd., Bedford Hts., OH 44146. Representative: James E. Luther (same address as applicant), (216) 292–7000. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S.

MC 153592 (Sub-2), filed January 4, 1982. Applicant: CONTAINER CARRIERS, INC., 7123 Capitol, Houston, TX 77011. Representative: C. W. Ferebee, 3910 FM 1960 W., Suite 106, Houston, TX 77068 (713) 537–8156. Transporting *such commodities* as are dealt in or used by chain grocery and food business houses, hardware, discount, drug, variety, and department stores, between points in AL, AR, FL, GA, IL, IN, KY, KS, LA, MS, MO, NM, OK, TN, and TX.

MC 157203, filed December 29, 1981. Applicant: WILLIAM S. HUGGHINS AND KEN CHESSER d.b.a. CUSTOM SERVICES, P.O. Box 131, Highway 31 South, Georgiana, AL 36033. Representative: Calvin Poole III, P.O. Box 308, Greenville, AL 36037, (205) 382–3123. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under a continuing contract(s) with Union Camp Corporation, of Wayne, NJ.

MC 159683, filed January 5, 1982. Applicant: CLINTON R. DEAN, Route 1 Box 402, Rowlesburg, WV 26425. Representative: Clinton R. Dean, (same address as applicant), 304–454–9481. Transporting *lumber products,* between points in the U.S., under continuing contract(s) with Coastal Lumber Company, of Dailey, WV.

MC 159933, filed January 4, 1982. Applicant: CACTUS TRANSPORT, INC., P.O. Box 245, Borger, TX 79007. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408, (806) 763–9555. Transporting *petroleum and petroleum products,* between points in TX, NM, OK, AR, CO, and KS.

MC 159943, filed January 4, 1982. Applicant: GREEN LINES TRANSPORTATION, INC., 7089 Alliance Rd., NW., Malvern, OH 44644. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting (1) *clay, concrete, glass and stone products,* between points in Carroll County, OH, on the one hand, and, on the other, points in CT, DE, IN, KY, ME, MD, MA, MI, MN, NH, NJ, NY, NC, PA, RI, TN, VT, VA, WV and WI, and (2) *metal products,* (a) between points in Ingham County, MI, on the one hand, and, on the other, points in OH, PA, IN and WV and (b) between points in OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, WY, CO and NM.

Volume No. OP3–08

Decided: January 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

FF 585, filed December 31, 1981. Applicant: DOUG LAVERY, LIMITED, 12200 Shirley Lane, Alsip, IL 60658. Representative: Paul J. Maton, 10 South LaSalle Street, Suite 1620, Chicago, IL 60603. As a freight forwarder of *general commodities* (except classes A and B explosives), between Chicago and Harvard, IL, on the one hand, and, on the other, Atlanta, GA, Boston, MA, Baltimore, MD, Dallas, TX, Denver, CO, Houston, TX, Los Angeles, CA, Miami, FL, Newark, NJ, New Orleans, LA, New York, NY, Oakland, CA, Philadelphia, PA, Phoenix, AZ, Portland, OR, San Francisco, CA and Seattle, WA, and points in IA, IL, IN, KY, MI, MO, OH, and WI.

MC 12874 (Sub-1), filed December 31, 1981. Applicant: TRANS-WORLD TRAVEL, INC., 1338 Old Skokie Rd., Highland Park, IL 60035. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. Transporting *passengers and their baggage,* in charter operations, between points in the U.S., under continuing contract(s) with Trans-World Travel, Inc., of Highland Park, IL.

MC 50935 (Sub-40), filed January 6, 1982. Applicant: WOLVERINE TRUCKING COMPANY, 1020 Doris Rd., Pontiac, MI 48057. Representative: Robert E. McFarland, 2855 Coolidge Rd., Ste. 201A, Troy, MI 48084, (313) 649–6650. Transporting *plastic products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Letica Corporation of Rochester, MI.

MC 115654 (Sub-199), filed January 7, 1982. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 347–8862. Transporting *food and related products,* between points in Grand Traverse County, MI and Scott County, MS, on the one hand, and, on the other, points in the U.S.

MC 119894 (Sub-25), filed January 4, 1982. Applicant: BOWARD TRUCK LINE, INC., 100 Roesier Rd., Suite 200, Glen Burnie, MD 21061. Representative: M. Bruce Morgan (same address as applicant), (301) 761–2580. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with Southern Bonded Warehouse of Morrow, GA.

MC 125335 (Sub-126), filed January 6, 1982. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501, (402) 474–6763. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

MC 138505 (Sub-19), filed January 4, 1982. Applicant: METROPOLITAN CONTRACTS SERVICES, INC., 6000 S. Ulster St., Suite 206, Englewood, CO 80111. Representative: K. R. Cunningham, Jr. (same address as applicant), (303) 773–8883. Transporting *such commodities* as are dealt in by department stores, between points in the U.S., under continuing contract(s) with Sears, Roebuck & Company, of Chicago, IL.

MC 138624 (Sub-4), filed January 6, 1982. Applicant: CLIFF REED, INC., Route 1, Box 510, Corvallis, MT 59828. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *chemicals and related products,* between points in UT on the one hand, and, on the other, points in ID, MT, ND, OR, SD and WA.

MC 141094 (Sub-10), filed January 5, 1982. Applicant: ACME TRUCKING, INC., 109A East Main St., Newark, OH 43055. Representative: John F. Duttera, Jr., 109A East Main St., Newark, OH 43055, (614) 345–3462. Transporting *clay, concrete, glass or stone products,* between points in Muskingum County, OH, on the one hand, and, on the other, points in the U.S.

MC 148265 (Sub-1), filed January 4, 1982. Applicant: L & F LEASING, INC., 3050 Gale Ave., Hubbard, OH 44425. Representative: Andrew Jay Burkholder, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *metal products,* between Chicago and Alton, IL, Detroit, MI, Trenton and Englewood, NJ, Buffalo, NY, points in IN, OH, and PA, and those in Marysville County, MI, on the one hand, and, on the other, points in MI, IN, OH, WV, MD, DE, PA, NJ, CT, RI, MA, VA, NH, ME, IL, VA, NC, and the DC.

MC 148275 (Sub-7), filed January 6, 1982. Applicant: J. L. McCOY, INC., P.O. Box 525, Ravenswood, WV 26164. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526, (304) 562–3460. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 149145 (Sub-4), filed January 4, 1982. Applicant: NATIONAL TRANSPORTATION SYSTEMS, INC., 1315 Directors Row, Suite 10A, Fort Wayne, IN 46808. Representative: Diane R. Knoll, P.O. Box 2298, Green Bay, WI 54306, (414) 497–5355. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 151384 (Sub-4), filed January 4, 1982. Applicant: G & J TRUCKING, INC., 415 South 11th, Fort Smith, AR 72901. Representative: Charles H. Schmidly, P.O. Box 1787, Fort Smith, AR 72902, (501) 785–2943. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contracts with (a) Colt Industries Inc., Colt Industries Operating Corporation, Central Moloney, Inc., Crucible, Inc., and Garlock, Inc., all of New York, NY, (b) Menasco, Inc., of Burbank, CA, and (c) Stemco, Inc., of Longview, TX.

MC 151585 (Sub-3), filed January 4, 1982. Applicant: BEST TRUCKING CO., INC., 2913 Halstead Rd., Richmond, VA 23235. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804) 282–3809. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk in tank vehicles), between points in the U.S., under continuing contract(s) with Charlotte Freight Association, Inc., of Charlotte, NC.

MC 153664, filed January 5, 1982. Applicant: DAVID A. LUNDEEN, d.b.a. FARGO FREIGHT TERMINAL & WAREHOUSE, 1445 5th Avenue North, P.O. Box 1828, Fargo, ND 58102. Representative: Richard P. Anderson, P.O. Box 2581, Fargo, ND 58108, (701) 235–3300. Transporting (1) *paper and paper products,* between points in the U.S., under continuing contract(s) with Butler Paper Company of Fargo, ND, and (2) *such commodities* as are dealt in or used by agricultural equipment, construction equipment, and lawn and leisure products dealers and manufacturers, between points in the U.S., under continuing contract(s) with International Harvester Company of Chicago, IL.

MC 153885 (Sub-3), filed January 6, 1982. Applicant: THE GREAT AMERICAN TRUCKING COMPANY, INC., 21 Northlake Dr., Peachtree City, GA 30269. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133–0924, (404) 949–7756. Transporting *general commodities* (except classes A and B explosives), between points in Clayton, Cobb, DeKalb, Fayette, Fulton, and Gwinnett Counties, GA, on the one hand, and, on the other, those points in the U.S. in and west of KS, NE, ND, OK, and SD.

MC 154434, filed January 4, 1982. Applicant: JAMES H. STEVENS, d.b.a. NEVADA TIRE WAREHOUSE, 2545 Westview, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882–5649. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with B. F. Goodrich Co., of Akron, OH.

MC 157575 (Sub-1), filed January 4, 1982. Applicant: SANDAROSA TRUCKING, 412 W. 10th N., Logan, UT 84321. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *metal products,* between points in Box Elder County, UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, WA and WY.

MC 158955, filed January 6, 1982. Applicant: MERIT TRUCKING, INC., 1901 Yardley Rd., P.O. Box 36, Morrisville, PA 19061. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Anchor Warehouse Co., of Trenton, NJ.

MC 159744, filed January 4, 1982. Applicant: W. J. WHITE, d.b.a. W. J. WHITE TRUCKING, 133 E. Parker, Houston, TX 77076. Representative: James M. Doherty, 500 W. Sixteenth St., P.O. Box 1945, Austin, TX 78767, (512) 478–9808. Transporting *metal products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Gulf Forge Company of Houston, TX.

MC 159934, filed January 4, 1982. Applicant: LAMPERT TOURS, INC., 200 E. Delaware Pl., Chicago, IL 60611. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd., W., Bradenton, FL 33507, (813) 758–4153. As a *broker,* at Chicago, IL, in arranging for the transportation of *passengers and their baggage,* between points in the U.S.

MC 159935, filed January 4, 1982. Applicant: NORMALENE TOURS, INC., 563 Prospect Ave., Bronx, NY 10455. Representative: Robert N. Swetnick, 217 Broadway, New York, NY 10007, (212) 349–2800. As a *broker* at New York, NY, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* between points in NY, on the one hand, and, on the other, points in the U.S.

MC 159944, filed January 4, 1982. Applicant: RODNEY & DOROTHY M. WHITE, d.b.a. WHITE TRUCKING, 811 Grant, Wray, CO 80758. Representative: Rodney White (same address as applicant), (303) 332–5235. Transporting *cement,* (a) between points in Boulder and Larimer Counties, CO, on the one hand, and, on the other, points in Dundy County, NE, and (b) between points in Nuckolls County, NE, on the one hand, and, on the other, points in Yuma County, CO.

MC 159945, filed January 4, 1982. Applicant: G. C. FOX, d.b.a. G. C. FOX TRUCKING, P.O. Box 251, Columbia, TN 38401. Representative: G. C. Fox (same address as applicant), (615) 388–8190. Transporting *limestone, sand, gravel,* and *lime,* between points in Maury, Marshall, Lawrence, and Giles Counties, TN, on the one hand, and, on the other, points in Lauderdale, Limestone, Morgan, Lawrence, Madison, Colbert, and Franklin Counties, AL.

MC 159954, filed January 4, 1982. Applicant: T & T TRUCKING, INC., 11396 N. Hwy. 99, Lodi, CA 95240. Representative: Milton W. Flack, 8383 Wilshire Blvd., #900, Beverly Hills, CA 90211, (213) 655–3573. Transporting *cullet, crushed limestone, dolomite, soda ash,* and *such commodities* as are used in the manufacture of glass and glass products and silica sand, between points in CA, OR and WA, on the one hand, and, on the other, points in AZ, CA, CO, ID, NV, NM, TX, UT, and WY.

MC 159965, filed January 6, 1982. Applicant: FM CUSTOM SKI TOURS, INC., 659 Blackwood-Clementon Rd., Lindenwold, NJ 08021. Representative: Barry R. Diamond, 805 King St.,

Alexandria, VA 22314, (703) 549–8010. As a *broker*, at Lindenwold, NJ, in arranging for the transportation of *passengers and their baggage*, beginning and ending at points in MD, DE, PA, and NJ, and extending to points in the U.S. (except AK and HI).

MC 159974, filed January 5, 1982. Applicant: OL WAYS TOURS, 3057 So. Higuera, #74, San Luis Obispo, CA 93401. Representative: Olive M. Vincent (same address as applicant), (705) 543–8701. As a *broker*, at San Luis Obispo, CA, in arranging for the transportation of *passengers and their baggage*, beginning and ending at points in CA, and extending to points in the U.S.

MC 159984, filed January 5, 1982. Applicant: THOMAS McGUIGAN, d.b.a. TRACK LIMO, 2077 E. Atlantic St., Philadelphia, PA 19134. Representative: Herbert E. Squires, 106 S. 16th St., Philadelphia, PA 19102, (215) 561–6060. Transporting *passengers*, in special operations, limited to transportation of not more than 14 passengers (excluding the driver), in one vehicle at one time, between Philadephia, PA, on the one hand, and, on the other, East Rutherford and Atlantic City, NJ, and Stanton and Wilmington, DE.

Volume No. OP3–10

Decided: January 18, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 61264 (Sub-41), filed January 5, 1982. Applicant: PILOT FREIGHT CARRIERS, INC., 4103 Cherry Street, NW., P.O. Box 615, Winston-Salem, NC 27102. Representative: William F. King, Suite 304, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312, (703) 750–1112. Transporting *general commodities* (except household goods, commodities in bulk, hazardous waste and classes A and B explosives), (1) between points in IL, IN, MI, NH and WI, and (2) between points in IL, IN, MI, NH and WI, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, MA, MD, NJ, NY, NC, OH, PA, RI, SC, TN, VA and DC.

Note.—Applicant intends to tack this authority to its regular-route authority in MC–61264 in order to provide service to and from its regular-route points in AR, KY, MS and WV.

MC 119765 (Sub-101), filed January 8, 1982. Applicant: EIGHT WAY XPRESS, INC., P.O. Box 7356, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *such commodities* as are dealt in by furniture and appliance stores, between Omaha, NE, on the one hand, and, on the other, points in the U.S.

MC 120675 (Sub-17), filed January 7, 1982. Applicant: ACME TRUCK LINE, INC., 2855 Lapalco Blvd., P.O. Box 183, Harvey, LA 70059. Representative: Paul D. Angenend, 1806 Rio Grande, P.O. Box 2207, Austin, TX 78768, (512) 476–6391. Transporting *those commodities which because of their size or weight require the use of special handling or equipment*, between points in LA, MS, OK and TX, on the one hand, and, on the other, points in AL, AR, CA, CO, CT, DE, FL, GA, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MO, MN, MS, MT, NC, ND, NE, NH, NJ, NM, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WI, WV and WY.

MC 141914 (Sub-105), filed January 7, 1982. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant), (918) 783–5180. Transporting *paper and plastic products*, between points in Sebastian County, AR, on the one hand, and, on the other, points in CA, OR and WA.

MC 152444 (Sub-6), filed January 7, 1982. Applicant: SHARP'S TRUCK & TRACTOR, INC., Business Hwy #36 & 69 West, Cameron, MO 64429. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105–1961, (816) 221–1464. Transporting *chemicals and related products*, between points in IL, IA, KS, MO, and NE.

MC 153005 (Sub-1), filed December 8, 1981. Applicant: MILES LANE LTD., 4822 S. Shenandoah Way, Aurora, CO 80015. Representative: Miles Lane (same address as applicant), (303) 693–2440. Transporting *food and related products*, between points in CO, on the one hand, and, on the other, points in UT, NV and CA.

MC 157744, filed January 8, 1982. Applicant: JAMES GANNON d.b.a. GANNON & SONS TRANSPORT, 95 Highland Ave., Pennsville, NJ 08070. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. Transporting *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Ganes Chemicals, Inc. of Pennsville, NJ.

MC 158234 (Sub-3), filed January 7, 1982. Applicant: PACIFIC MOTOR TRANSPORT, INC., 13120 Tilly Rd., So., Olympia, WA 98502. Representative: George H. Hart, 1100 IBM Bldg., Seattle, WA 98101, (206) 624–7373. In foreign commerce only, transporting *lime*, in bulk, between Portland, OR, and ports of entry on the international boundary line between the U.S. and Canada at points in WA, on the one hand, and, on the other, points in WA and OR.

MC 141175 (Sub-8), filed October 8, 1981, and previously noticed in the **Federal Register** issue of October 23, 1981. Applicant: GARLEPIED TRANSFER, INC., 319 Butterworth St., Jefferson, LA 70181–0624. Representative: G. H. Knapp, Jr. (same address as applicant), (504) 733–2091. Transporting *bananas, pineapples, and coconuts*, between Galveston, TX and Gulfport, MS, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this republication is to correctly reflect the commodity description.

Volume No. OP4–11

Decided: January 11, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 3116 (Sub-2), filed January 4, 1982. Applicant: YERGES VAN LINERS, INC., 1230 Whitewater Ave., Hwy 12, Fort Atkinson, WI 53538. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *foodstuffs*, between points in the U.S., under continuing contract(s) with J. G. Van Holten & Son, Inc., of Waterloo, WI.

MC 61396 (Sub-396), filed January 4, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *cement*, between the facilities of Independent Cement Company, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 61396 (Sub-397), filed January 4, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *dry fertilizer*, between points in Calcasieu and Ascension Parishes, LA, on the one hand, and, on the other, points in Angelina County, TX.

MC 159946, filed January 4, 1982. Applicant: DARWIN D. COOK and JACK KIDD, JR. d.b.a. KIDD COOK CARRIERS, 1814 E Mead, Union Gap, WA 98903. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Seneca Foods, of Prosser, WA.

MC 159966, filed January 6, 1982. Applicant: JAMES A. RPIVE and LOUIS J. GREPPI d.b.a. P & L TRUCKING, 60 W. Barham Ave., Santa Rosa, CA 95401.

Representative: James H. Gulseth, 100 Bush St., 21st Fl., San Francisco, CA 94104, (415) 986–5778. Transporting *vehicle parts, accessories and supplies,* between points in Del Norte, Humboldt, Trinity, Mendocino, Lake, Sonoma, Napa, Yolo, Sacramento, Solano, Marin, Contra Costa, Alameda, Santa Clara, San Mateo, Santa Cruz, and San Francisco Counties, CA.

Volume No. OP4–16

Decided: January 15, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 82007 (Sub-9), filed January 8, 1982. Applicant: GREGG BUS SERVICE, INC., P.O. Box 125, Yorklyn, DE 19736. Representative: Thomas N. Willess, 1000 Sixteenth St., NW, Suite 502, Solar Bldg., Washington, DC 20036, (202) 783–8131. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, between points in New Castle County, DE, Cecil County, MD, and Chester County, PA, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI).

MC 119917 (Sub-70), filed January 5, 1982. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Drive, SE, Atlanta, GA 30316. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345, (404) 321–1765. Transporting *general commodities* (except classes A and B explosives, used household goods and commodities in bulk), between the facilities of Union Camp Corporation in the U.S., on the one hand, and, on the other, points in the U.S.

MC 126327 (Sub-20), filed January 8, 1982. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 95050. Representative: John W. White Jr. (same address as applicant), (408) 727–9000. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with G. D. Searle & Co., of Phoenix, AZ.

MC 128007 (Sub-172), filed January 8, 1982. Applicant: HOFER, INC. 20th & 69 Bypass, P.O. Box 583, Pittsburg, KS 66762. Representative: Larry E. Gregg, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting *metal products, machinery and construction equipment,* between points in the U.S., under continuing contract(s) with McNally Pittsburg, Inc., of Pittsburg, KS.

MC 128117 (Sub-47), filed January 7, 1982. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Representative: Edward T. Love, 4401 East West Hwy, Suite 404, Bethesda, MD 20814, (301) 986–9030. Transporting *new furniture and furniture parts,* between points in Travis County, TX and Bienville Parish, LA, on the one hand, and, on the other, points in DE, IN, MD, NJ, OH, PA, WV, and DC.

MC 129537 (Sub-64), filed January 8, 1982. Applicant: REEVES TRANSPORTATION CO., Rt. 5—Dew's Pond Rd., Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602, (813) 229–6165. Transporting (1) *textile mill products,* between points in Caddo County, OK, on the one hand, and, on the other, points in TX, LA, and NM, and (2) *portable toilets and accessories,* between points in Los Angeles County, CA and Tarrant County, TX, on the one hand, and, on the other, points in NV, AZ, CO, NM, KS, OK, MO, AR, LA, IL, IN, OH, KY, TN, MS, AL, GA, FL, SC, NC, and VA.

MC 159687, filed January 6, 1982. Applicant: ROBERT PIPPERT d.b.a. PIPPERT TRUCKING, Box B, Gladbrook, IA 50635. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309, (515) 243–6164. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Union-Marshall Packing Co., of Marshalltown, IA.

MC 159987, filed January 5, 1982. Applicant: THE 7 BROTHERS INTERNATIONAL, INC., 1405 Jerome Ave., New York, NY 10452. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW, Suite 1200, Washington, DC 20036, (202) 785–0024. To operate as a *broker,* to arrange for the transportation of *household goods,* between points in the U.S.

MC 159997, filed January 6, 1982. Applicant: DOUG YOUNG, d.b.a. CENTURY COACH SERVICE, 1922 Vanderbilt Circle, Huntsville, AL 35801. Representative: Doug Young (same address as applicant), (205) 534–6529. Transporting *passengers and their baggage,* in charter operations, between points in Madison County, AL, on the one hand, and, on the other, points in the U.S.

Volume No. OP5–06

Decided: January 7, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 148859 (Sub-3), filed December 28, 1981. Applicant: MID STATE TRADING COMPANY, P.O. Box 3275, 2525 Trenton Ave., Williamsport, PA 17701. Representative: Sander M. Bieber, Suite 800, 888 17th St., NW., Washington, DC 20006 (202) 872–8600. Transporting *industrial chemical wastes* between points in DE, MD, NJ, NY, OH, and PA.

MC 149588 (Sub-1), filed December 28, 1981. Applicant: HIEL TRUCKING, INC., R.R. #2, Prairie City, IL 61470. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701 (217) 544–5468. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Moorman Mfg. Company, of Quincy, IL.

MC 151819 (Sub-9), filed December 24, 1981. Applicant: CARGO-MASTER, INC., 917 S. Harwood, Dallas, TX 75201. Representative: Jackson Salasky (same address as applicant), (214) 731–6185. Transporting *such commodities* as are dealt in or used by tanners, between points in the U.S.

MC 151899 (Sub-6), filed December 28, 1981. Applicant: BLACKHAWK EXPRESS, INC., 235 Hake St., Fort Atkinson, WI 53538. Representative: Anthony E. Young, 29 South LaSalle, St., Suite 350, Chicago, IL 60603 312–782–8880. Transporting *food and related products,* between points in the U.S. under continuing contract(s) with Aunt Nellie's Foods, Inc. a Division of Beatrice Foods, Inc. of Clyman, WI; Badger Liquor Company, Inc. of Fond Du Lac, WI; Birchwood Meat & Provision Company and Kenosha Beef International, Ltd. both of Kenosha, WI; Deltown Chemurgic Corporation of Belleville, WI; and Sanna, Inc., a subsidiary of Beatrice Foods, Inc. of Madison, WI.

MC 152439 (Sub-4), filed December 29, 1981. Applicant: WILLETT INTERSTATE SYSTEM, INC., 3901 South Ashland, Ave., Chicago, IL 60607. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603 312–236–9375. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. under continuing contract(s) with Washington Oregon Shippers Cooperative Association, Inc., Pacific Northwest Perishable Shippers Association, and Pacific Northwest Shippers Cooperative Association, Inc. all of Seattle WA.

MC 152448, filed December 22, 1981. Applicant: M & T CARTAGE, INC., 4951 Simonton Rd., Dallas, TX 75234. Representative: H. Neil Garson, 3251 Old Lee Hwy., Fairfax, VA 22030 703–691–0900. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in

bulk), between Dallas, San Antonio and Lorado, TX on the one hand, and, on the other, points in TX.

MC 155178 filed December 18, 1981. Applicant: SPECIALIZED SERVICE EXPRESS, INC., 15 Court St., Fort Smith, AR 72901. Representative: Troy R. Douglas, 400 North 6th St., Fort Smith, AR 72901. (501) 783–8080 Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in AR, OK, CO, KS, MS, MO, TN, and TX, on the one hand, and, on the other, points in the U.S.

MC 155218 (Sub-1), filed December 21, 1981. Applicant: TRANS TRUCK, INC., 7401 Bunkam Rd., Box 1100, East St. Louis, IL 62204. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102, (314) 421–0845. Transporting *food and related products* between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 158069 (Sub-3), filed December 29, 1981. Applicant: TRANSITALL SERVICES, INC., Two North Riverside Plaza, Suite 1402, Chicago, IL 60606. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603 (312) 782–8880. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Amway Corporation, of Ada, MI.

MC 158289, filed December 21, 1981. Applicant: GENERAL EXPRESS, INC., 4698 Lake Mirror Place, Forest Park, GA 30050. Representative: Bill R. Davis, Suite 101–Emerson Center, 2814 New Spring Road, Atlanta, GA 30339 (404) 434–3381.Transporting (1) *varnishes and packaging materials*, between points in Cobb, Fulton, Gwinnett and Clayton Counties, GA, on the one hand, and, on the other, points in CA, WA, and OR, and (2) *alcoholic beverages*, between points in CA on the one hand, and, on the other, points in Fulton County, GA.

MC 158589 (Sub-1), filed December 21, 1981. Applicant: RAINBOW MOTOR LINES, INC., 220 River Drive, Lake Hiawatha, NJ 07034. Representative: Peter R. Scrivani (same address as applicant), (201) 334–1939. Transporting *machinery, machinery parts* and *paper*, between points in the U.S., under continuing contract(s) with Bobst Champlain, Inc., of Roseland, NJ.

MC 159808, filed December 21, 1981. Applicant: PROVISO CARTAGE CO., INC., 8000 South New England, Burbank, IL 60459. Representative: Irwin D. Rozner, 134 North LaSalle St., Chicago, IL 60602 (312) 782–6937. Transporting *packaging materials, plastic and plastic products*, and *paper products*, between points in IL on the one hand, and, on the other, points in WI.

MC 159838, filed December 23, 1981. Applicant: MALCOLM H. HILL, d.b.a. HILL'S MOTOR COACH TOURS, Rt. 10, Box 264, Kinston, NC 28501. Representative: Malcolm H. Hill (same address as applicant), (919) 522–0766. To operate as a *broker* at Kinston, NC, in arranging for the transportation of *passengers and their baggage* in same vehicle with passengers, between points in Lenoir, Pitt, Greene, Craven and Wayne Counties, NC, on the one hand, and, on the other, points in the U.S. (except HI).

MC 159839, filed December 23, 1981. Applicant: HARVEY BROWN, d.b.a. BROWN'S BUS COMPANY, 5504 Chandler Ave., Baltimore, MD 21207. Representative: Walter T. Evans, 7961 Eastern Ave., Silver Springs, MD 20910 301–587–8656. Transporting *passengers and their baggage* in the same vehicle with passengers in charter operations beginning and ending at points in the Baltimore, MD commercial zone and extending to points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-1598 Filed 1-21-82; 8:45 am]

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[Volume No. 221]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: January 19, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 44737 (Sub-2)X, filed January 6, 1982. Applicant: THE ANDREWS MOVING AND STORAGE COMPANY, 4811 Van Epps, Cleveland, OH 44131. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215. Lead certificate, broaden to "household goods, and furniture and fixtures" from household goods.

MC 56383 (Sub-13)X, filed November 24, 1981, previously published in the **Federal Register** of December 9, 1981, republished as follows: Applicant: KESSELL TRANSFER & STORAGE CO., INC., 2105 Wall Ave., Ogden, UT 84409. Representative: Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902. In addition to the territorial broadenings as published 12–9–81, applicant seeks to broaden the commodities in its lead and subs 7, 10, 11, and 12G from household goods, as defined by the Commission to "household goods, as defined, furniture and fixtures, and materials, equipment and supplies used in the manufacture, sale, and distribution of furniture and fixtures". This request previously was denied. Republication is necessary because of the Commission's decision in No. MC–8575 (Sub-No. 8)X, *Fergeson Van Lines, Inc.* (not printed) served January 12, 1982.

MC 63837 (Sub-8)X, filed December 7, 1981, and previously noticed in the **Federal Register** of December 28, 1981, republished as corrected this issue. Applicant: DIGGINS & ROSE, INC., 3 Sagamore Park Road, Hudson, NH 03051. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. Applicant seeks to remove restrictions in its lead and Sub 6, as previously published, and also broaden lead and Sub 6, from household goods to "household goods, furniture and fixtures." The purpose of this republication is to correct omissions.

MC 78075 (Sub-1)X, filed January 6, 1982. Applicant: BERMAN MOVING & STORAGE, INC., 7255 Free Avenue, Bedford, OH 44146. Representative: Earl

N. Merwin, 85 East Gay St., Columbus, OH 43215. Lead certificate: Broaden to "household goods and furniture and fixtures" from household goods.

MC 93078 (Sub-2)X, filed January 7, 1982. Applicant: FITCH TRUCKING, INC., 4242 "E" Street, Lincoln, NE 68510. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Sub 1, broaden (1) general commodities with usual exceptions to "general commodities (except Class A and B explosives)" (2) in regular route portion, (a) off-route points in NE within 20 miles of Ponca, NE to Cedar, Dixon and Dakota Counties and (b) to service at all intermediate points, (3) Allen, NE to Dixon County and (4) to radial authority.

MC 108676 (Sub-177)X, filed December 29, 1981. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Ave., Knoxville, TN 37917. Representative: H. E. Miller, Jr., Fifth Fl., 501 Union St., Nashville, TN 37219. Lead and Subs 15, 19, 20, 21, 24, 28, 29, 34, 36, 38, 44, 46, 47, 48, 51, 54, 55, 57, 65, 66G, 68, 69, 76, 82, 88, 89 91, 94, 95, 98, 99, 100, 103, 107, 108, 109, 113, 114, 118, 119F, 120F, 123F, 126F, 127F, 131F, 132F, 141F, 142F, 143F, 144 150F, 155F, 156F, 158F, 159F, and 161F certificates: (A) Broaden from (1) Subs 34, 44, 48, 51, 55, 57, 68, 69, 82, 91, 95, 103, 107, 120, 142, 143, 155, 158, and 159, flat glass, uncreated flat glass, glass and glass products, crated flat glass, glass and glass glazing unit to "clay, concrete, glass, or stone products"; (2) Subs 15, 20, 21, 24, 28, 29, 47, 54, 65, 76, 98, 108, 114, 119, 123, 131, 141, 156, and 161, iron and steel articles, steel decking, steel containers, storage devices, signs and sign poles, iron and steel buildings, steel colbert pipe, steel sheet and guard rails, metal buildings, metal articles, tanks, fabricated steel, alloys, aluminum products, aluminum extrusions, zinc, zinc alloy, zinc products and various other metal articles to "metal products"; (3) Subs 99, 126 and 144, rock crusher equipment, electric motors, grinders, buffers, dental lathes; dust collectors and pedestals, road construction machinery, equipment parts and accessories, to "machinery"; (4) Subs 19, 94, 127 and 150, limestone products, precast and prestressed concrete products and fired clay cat litter to "clay, concrete, glass or stone products"; (5) Subs 36, 89, 109 and 118, refuse containers, refuse containers systems, and carago container systems to "containers"; (6) Subs 88 and 132, sewage disposal units, water treatment units, tertiary filters, flow splitter boxes, sewage treatment plants, and sewage lift stations to "such commodities as are dealt in by manufacturers of ecological and environmental control systems"; (7) Sub 113, racks and shelving to "building materials"; (8) Sub 38, paper and paper articles to "pulp, paper and related products"; (9) Sub 46, modular ovens to "furniture and fixtures"; (10) Sub 100, trailers and trailer chassis, trailer converter dollies, motor vehicle bodies, packer bodies, lift gate, containers, and hoist to "transportation equipment and machinery"; (11) lead, contractor's machinery and equipment and coal and coke mining machinery and equipment, mine cars and iron or steel conveying, dredging, dumping, or hoisting buckets, dippers, or skips to "machinery", iron and steel articles to "metal products", and marble to clay, "concrete, glass or stone products"; (12) Sub 66G, iron and steel articles to "metal products", contractor's and coal and coke mining equipment to "machinery", iron and steel conveying, dredging, dumping, and hoisting buckets, dipers, and skips and iron and steel articles that consist of signs, sign poles, and parts and accessories thereof to "metal products"; and, (13) Sub 54, trailer chassis and self propelled motor vehicles to "transportation equipment"; (B) Remove (1) all exceptions from the general commodities authority, except classes A and B explosives), Sub 20; (2) "size or weight", and/or "mixed shipments" restriction, lead and Subs 44, 98 and 100; (3) "foreign commerce" restriction, Subs 103 and 119; (4) "immediate subsequent or prior movement by rail," restriction, Sub 20; (5) restriction prohibiting the transportation of specified commodities from and to designated points, Sub 66G (parts 1 and 2) (6) "originating at or destined to" restriction, Subs 15, 24, 36, 38, 47, 65, 76, 103, 119 and 123; and (7) facilities restriction, Subs 15, 20, 24, 28, 29, 46, 47, 48, 54, 57, 65, 66G, 88, 89, 95, 99, 108, 109, 113, 114, 118, 119, 120, 126, 132, 141, 142, 144, 150, 155, 156, 158, and 161; (C) Broaden to county-wide authority: (1) Kingsport (Sullivan County, TN), Sub 34; (2) CLinton and Laurinburg (Sampson and Scotland Counties, NC), Sub 51; (3) Cinnaminson, NJ, Floreffe, PA and Erwin, TN (Burlington County, NJ, Allegheny County, PA, and Unicoi County, TN), Sub 55; (4) Mount Holly Springs, PA, Kebert Park, PA, Crystal City, MO, and Cumberland, MD (Cumberland County, PA, Jefferson County, MO, and Allegany County, MD), Sub 57; (5) Kingsport (Sullivan County, TN), Sub 68; (6) Selma (Dallas County, AL), Sub 82; (7) Webster (Worcester County, MA) Sub 91; (8) Kingsburg (Fresno County, CA), Sub 107; (9) Fresno (Fresno County, CA), Sub 120; (10) Reedley (Fresno County, CA), Sub 142, (11) Truesdail (Warren County, MO), Sub 143; (12) Corsicano (Navarro County, TX), Sub 155; (13) Decatur (Macon County, IL), Sub 158; (14) Harriman (Roane County, TN), Sub 15; (15) Ebenezer and Clinton (Marion and Anderson Counties, TN), Sub 20; (16) Clinton (Anderson County, TN Sub 24; (17) Macedonia (Summit County, OH), Sub 28; (18) Elk Grove Village (Cook County, IL), Sub 29; (19) Girard (Trumbull County, OH), Sub 54; (20) Portland (Sumner County, TN), Sub 65; (21) Trenton (Dade County, GA), Sub 108; (22) Elizabethton (Carter County, TN), Sub 114; (23) Beaver Falls and Alleport (Beaver and Washington Counties, PA) and Canton (Stark County, OH) Sub 141; (24) Goose Creek (Berkeley County, SC) Sub 161; (25) Luttrell (Union County, TN), Sub 94; (26) Stroud (Lincoln County, OK), Sub 150; (27) Lexington (Henderson County, TN), Subs 89 and 118; (28) Danville (Montour County, PA), Sub 109; (29) Belzoni (Humphreys County, MS), Sub 88; (30) Richwood (Boone County, KY), Sub 132; (31) Springfield (Robertson County, TN), Sub 113; and (32) Athens (McMinn County, TN), Sub 100; and (D) Broaden to radial authority; all Subs, except lead and Subs 38, 66G, 126 and 144.

MC 110585 (Sub-19)X, filed January 7, 1982. Applicant: REPUBLIC VAN & STORAGE CO., INC., 9219 Hartford Avenue, Baltimore, MD 21234. Representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, DC 20006. Sub 2: broaden (1) household goods to include "furniture and fixtures"; (2) to radial authority (3) delete restrictions to shipments moving to territories or possessions of the U.S.

MC 116325 (Sub-93)X, filed January 4, 1982. Applicant: JENNINGS BOND d.b.a. BOND ENTERPRISES, P.O. Box 8, Lutesville, MO 63762. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Subs 3, 4, 7F, 8, 10, 11, 13, 16, 19, 20, 21, 24, 25, 26, 34, 39, 41, 42, 44, 46, 47, 49, 54, 55, 56, 58, 62, 64, 65, 68, 70, 71, 72, 73, 74, 75, 76, 77, 78F, 79F, 80F, 81F, 82F, 83F, and 90, Broaden: to radial authority; remove restrictions: Subs 7F, 8, 19, 24, 25, 39, 41, 42, 47, 64 and 71, against the transportation of commodities, because of size/weight require special equipment; Subs 44, 55, 70, 74, 75, 76, 78F, 79F, 80F, 81F and 82F, concerning commodities in bulk, in tank vehicles; Subs 21, 34, 39, 44, 56, 64, 68, 71, 74, 77, 78 and 82, against traffic originating/destined to named facilities/points; Subs 10 and 11, against "transportation of hardwood flooring . . ."; Sub 13, except handle blanks, barrel staves, sawdust, or furniture stock; Sub 68, against the transportation of pre-fabricated buildings; Broaden:

Sub 4, East St. Louis to St. Clair County, IL and Advance to Stoddard County, MO; Sub 13, "that part of Madison County, MO on and east of U.S. Highway 67" to Madison County, MO, and from "points in Wayne County, MO, on and east of U.S. Highway 67" to Wayne County, MO; (Sub 16) Olathe and points within five miles thereof to Johnson County, KS; Lawrence to Douglas County, KS; East St. Louis, IL, and Olathe, KS, facilities to Saint Clair County, IL and Johnson County, KS; Sub 20, Kansas City, Poplar Bluff, and St. Louis to Jackson, Butler, and St. Louis Counties, MO, and St. Louis, MO, Chesterfield to St. Louis County, MO; Sub 21, Burns Harbor facility to Porter County, IN; Sub 24, Fairbury and Forrest to Livingston County, IL; Sub 26, Sterling and Rock Falls to Whiteside County, IL; Sub 34, remove "(except Perryville)" from points in Perry County, MO; and remove "on and east of U.S. Highway 67" from points in Butler County, MO; Sub 39, Harriman, TN facility to Roane County, TN; Subs 41, 42 and 47, Springfield, IL to Sangamon County, IL; Sub 44, facility in Putnam County to Putnam County, IL; Sub 46, that part of Butler County, MO, east of U.S. Highway 67 to Butler County, MO; Sub 54, McLeansboro to Hamilton County, IL, and Chesterfield, MO to St. Louis County, MO; Sub 55, Wickliffe facility to Ballard County, KY; Sub 56, Belvidere facility to Boone County, IL; Sub 62, Lima to Allen County, OH; Sub 65, Rock Falls to Whiteside County, IL; Sub 68, Alexander facility to Morgan County, IL; Sub 71, Webb City and Farmington to Jasper and St. Francois Counties, MO; Sub 72, Milwaukee to Milwaukee County, WI; Peoria to Peoria County, IL, and Dubuque to Dubuque County, IA; (Sub 75, Oran and Bloomfield, MO to Scott and Stoddard Counties, MO; Sub 77F, Sterling and Rock Falls, IL to Whiteside County, IL; Sub 81F, Henry County facility to Henry County, TN; Sub 83F, Detroit, MI to Wayne County, MI and St. Paul, MN to Ramsey County, MN; and Sub 90, Mt. Pleasant facility to Titus County, TX; Broaden: Sub 3, crating, lumber, pallet bins, poles, posts, skids, squares, and wooden pallets to "lumber and wood products"; Sub 4, fertilizer and feed, in bags to "chemicals and related products"; Sub 7F from "brick, concrete blocks, prestressed and pre-cast concrete products, concrete tile, and products of concrete to "clay, concrete, glass or stone products"; Sub 8, quarry blocks, building stone, polished stone, cut stone, flagging, slabs, sills, coping, veneering, polished marble, polished articles of stone, stone blocks and products of stone" to "clay, concrete, glass, or stone products and lumber and wood products"; Sub 10, wooden poles, posts, piling, blocking, skids, squares, crating, wooden pallets, pallet bins, boxes and pallet materials and lumber and wood products to "lumber and wood products"; Sub 11, wooden poles, posts, piling, blocking, skids, squares, crating, lumber and wood products, wooden pallets, pallet bins, boxes and pallet materials to "lumber and wood products"; Sub 13, wooden crating pallets, pallet bins, boxes, pallet materials, poles, posts, piling, blocking, skids and squares, lumber and lumber products (except handle blanks, barrel staves, sawdust or furniture stock), to "poles, piling, lumber and wood products"; Sub 16, fertilizer and fertilizer compounds, dry, in bulk and in bags, damaged, defective or returned shipments of those commodities to "chemicals and related products"; Sub 19, from iron and steel articles and related steel products to "metal products"; Sub 20, posts and poles, pallets, and lumber and lumber products to "lumber and wood products"; Sub 21, from iron and steel mill products, and equipment and supplies used or useful in the production and distribution of such commodities to "iron and steel mill products and metal products"; Sub 24, from steel tubing conduit, pipe, and sheet steel to "metal products, conduit and pipe"; Sub 25, pallets, pallet dividers, pallet racks, pallet bins, pallet materials, boxes, crates, crating, lumber, skids, squares, posts, timbers, logs, and cants to "lumber and wood products"; Subs 26, 39, 44, 58, 64, 68, 71, 77, "iron and steel, iron and steel articles, fabricated iron and steel, materials, equipment and supplies used in the manufacture and processing of those commodities, to "metal products"; Sub 34, wooden pallets, pallet bins, pallet materials, blocking, skids, squares, mats, crates, and boxes to "lumber and wood products"; Subs 41 and 42, pipe and pipe fittings, couplings, connections, and accessories, except iron and steel pipe, to "metal products and pipe"; Sub 46, pallets, lumber, blockings, skids, crates and pallet bins to "lumber and wood products"; Sub 47, pipe and pipe fittings, couplings, connections, and accessories" to read "metal products and pipe"; Sub 49, wooden pallets, pallet bins, skids, mats, pallet materials, blocking, crates, and boxes to "lumber and wood products"; Sub 54, wooden skids, pallets, boxes, crating, and blocking and lumber to "lumber and wood products"; Sub 55, paper and paper products and materials and supplies used in the manufacture and processing of those commodities to "pulp, paper and related products"; Sub 56, expanded plastic insulation material to "rubber and plastic products"; Sub 62, steel highway guard rails and guard rail posts to "metal products"; Sub 65, tractor cabs and related parts and accessories to "machinery"; Sub 70, from clay and clay products to "clay, concrete, glass or stone products"; Sub 72, from malt beverages to "food and related products"; Sub 73, from "salvaged automobiles and trucks and parts thereof, crushed, to "salvaged automobiles and trucks and parts thereof"; Sub 74, laminated beams, lumber and lumber products and materials and supplies used in the production of those commodities to "laminated beams, lumber and wood products"; Sub 75, clay and clay products to "clay, concrete, glass or stone products"; Sub 78f, from clay and clay products to "clay, concrete, glass or stone products"; Sub 80F, parts (1) and (3), lumber, lumber products, poles and posts and (2) materials and supplies used in the manufacture and distribution of those commodities, to "poles, posts, lumber and wood products"; Sub 82F, part (1) foodstuffs" to "food and related products" and part (2) materials, equipment and supplies sued in the manufacture and distribution of foodstuffs to "materials, equipment and supplies used in the manufacture and distribution of those commodities"; Sub 83F, malt beverages to "food and related products"; and Sub 90, sulphur, in bags to "chemicals and related products".

MC 128529 (Sub-1)X, filed December 8, 1981, previously noticed in the **Federal Register** of January 12, 1982, republished as corrected this issue. Applicant: BUF-AIR EXPRESS, INC., 495 Aero Dr., Cheektowaga, NY 14225. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202. Lead certificate: Broaden to county-wide authority: (1) Erie and Niagara Counties, NY (Greater Buffalo Airport); (2) Livingston, Macomb, Monroe, Oakland, Washtenaw, and Wayne Counties, MI (Detroit Airport); (3) Bristol, Essex, Middlesex, Norfolk, Plymouth, and Suffolk Counties, MA (Logan Airport); and (4) Allegheny, Beaver, Butler, Washington and Westmoreland Counties, PA (Pittsburgh Airport). The purpose of this republication is to correct the scope of the territorial authority sought to more closely represent that requested by applicant.

MC 143275 (Sub-2)X, filed December 28, 1981. Applicant: HILTON K. RAWLINS, P.O. Box 84, McRae, GA 31055. Representative: Richard M.

Tettelbaum, P.O. Box 720434, Atlanta, GA 30328. Sub 1 Permit. Broaden: lawn mower sub-assemblies and lawn mower parts, roto-tiller parts, and shredder-bagger machine parts, and material and supplies used in the manufacture of lawn mowers, roto-tillers and shredder-bagger machines (except in bulk), to "such commodities as are dealt in or used by manufacturers of lawn care equipment"; and to between points in the U.S. (except AK and HI) under continuing contract(s) with named shipper.

MC 149604 (Sub-2)X, filed December 31, 1981. Applicant: ACTION TRANSIT COMPANY, Rt. 21 South, P.O. Box 884, Mooresville, NC 28115. Representative: M. Diane Neal, 2230 Shepler Church Avenue SW., P.O. Box 6270, Canton, OH 44706. Lead certificate: Remove the "metal containers" and "commodities in bulk" restrictions from its authority to transport metals, metal products, machinery and machinery parts, materials, equipment and supplies used in the manufacture and distribution of the commodities above; and contractors and builders materials, equipment and supplies.

MC 153938 (Sub-7)X, filed January 4, 1982. Applicant: ENERGY EXPRESS, INC., 2125 N. Redwood St., Salt Lake City, UT 84116. Representative: David E. Wishney, P.O.B. 837, Boise, ID 83701. Sub 5X: (A) Broaden to (1) "petroleum, natural gas and their products" from (a) petroleum products, except asphalt and heavy oils, (part 1), (b) petroleum and petroleum products, (parts 2, 7 and 11), (c) petroleum products, (parts 3, 14 and 16), (d) liquified petroleum chemicals, (parts 10), and (e) contaminated petroleum and contaminated petroleum products (parts 12 and 15); (2) "chemicals and related products" from (a) anhydrous ammonia, liquid ammonium nitrate solution and nitric acid, (part 4), (b) liquid hydrogen, liquid oxygen and liquid nitrogen, (part 5), (c) liquid oxygen, liquid nitrogen, liquid hydrogen, liquid argon and liquid helium, (part 6), (d) liquid petroleum chemicals (part 9), and (e) liquid ammonium nitrate solution and nitric acid, (part 13); and (3) "coal and coal products" from naptha, (part 8); (B) Remove the "in bulk, in tank vehicle" restriction, (part 8); (C) Broaden to county-wide authority; (1) (parts 1, 2 (a,c,e and g), 9, 11 and 12), Salt Lake City and Woods Cross, and points within 10 miles thereof (Salt Lake and Davis Counties, UT); (2) (part 2b), Ogden (Weber County, UT; (3) (part 2d), Boise, Twin Falls and Pocatello, and points within 5 miles of each (Ada, Twin Falls, Jerome, Bannock and Power Counties, ID); (4) (part 2f), Pocatello (Bannock County, ID); (5) (part 3), Las Vegas and points within 10 miles thereof (Clark County, NV); (6) (part 4), Geneva (Utah County, UT); (7) (part 6), Garfield and Salt Lake City (Tooele and Salt Lake Counties, UT), Boise and Pocatello (Ada and Bannock Counties, ID), and Butte and Billings (Silver Bow and Yellowstone Counties, MT); (8) (part 7), facilities at Pocatello, (Bannock County, ID); (9) (part 8), Fredonia (Coconino County, AZ) and Salt Lake City (Salt Lake County, UT); (10) (part 10), Boise, Twin Falls, Evans and Pocatello, and points within 10 miles thereof (Ada, Twin Falls, Jerome, Bannock, Power and Cassia Counties, ID); (11) (part 12), points in TX on or west of U.S. Hwy 277 (points in TX in and west of Wichita, Archer, Baylor, Knox, Haskell, Jones, Taylor, Runnels, Coke, Tom Green, Schleicher, Sutton, Edwards, Val Verde, Kinney and Maverick Counties, TX); (12) (part 13), Geneva (Utah County, UT); (13) (parts 14a and 15a), Sparks and Fallon (Washoe and Churchill Counties, NV); and (14) (parts 14b and 16), Las Vegas, Nellis Air Force Base, Indian Springs and Indian Springs Air Force Base, and points within 10 miles of each (Clark County, NV); and (D) Broaden to radial authority, (part 15b).

[FR Doc. 82-1597 Filed 1-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29813]

Rail Carriers, Cisco Cooperative Grain Company—Purchase—Illinois Central Gulf Railroad Company Between Cisco and Green Switch, IL; Intent To Purchase

On December 31, 1981, the Cisco Cooperative Grain Company (Cisco) filed a notice of its intent to request the Commission to require the sale of trackage. Cisco seeks to require the track of the Illinois Central Gulf Railroad Company (ICG) between Cisco (milepost No. 14.22) and Green Switch (milepost No. 27.63), a distance of 13.41 miles, pursuant to the feeder line development provisions of 49 U.S.C. 10910.

Cisco's application may be filed after March 31, 1982 (90 days after its notice). When an application is filed, any interested party may submit comments or recommendations to the Commission within 30 days and any financially responsible person may propose to acquire the property through a competing application, also within 30 days. All pleadings should refer to Finance Docket No. 29813 and should be submitted, with 10 copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423. A copy should also be sent to Thomas F. McFarland, Jr., and Stephen C. Herman, Belnap, McCarthy, Spencer, Sweeney & Harkaway, 20 North Wacker Drive, Chicago, IL 60606, (312) 236-0204.

For further information contact Wayne A. Michel (202) 275-7657 or Richard A. Kelly (202) 275-7564 at the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-1591 Filed 1-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 29N)]

Rail Carrier; Conrail Abandonment Between Bedford and Napier, 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 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Bedford and Napier in the County of Bedford, PA, a total distance of 4.5 miles effective on December 23, 1981.

The net liquidation value of this line is $63,303. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish division of joint rates for through-routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-1590 Filed 1-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 26N)]

Rail Carriers; Conrail Abandonment Between Clarksville and New Albany, IN; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Clarksville and New Albany in the Counties of Clark and Floyd, IN, a total distance of 3.0 miles effective on December 23, 1981.

The net liquidation value of this line is $104,272. 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 division of joint rates for through-routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-1595 Filed 1-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 32N)]

Rail Carriers; Conrail Abandonment Between Hubbard and Bentley, OH; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Hubbard and Bentley in the County of Trumbull, OH, a total distance of 3.6 miles effective on December 23, 1981.

The net liquidation value of this line is $169,305. 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 division of joint rates for through-routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-1593 Filed 1-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 28N)]

Rail Carriers; Conrail Abandonment Between Pembroke and Grassland, 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 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Pembroke and Grassland in the County of Chester, PA, a total distance of 3.8 miles effective on December 23, 1981.

The net liquidation value of this line is $508,757. 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 division of joint rates for through-routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-1596 Filed 1-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 33N)]

Rail Carriers; Conrail Abandonment Between Sharon and Sharpsville, 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 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Sharon and Sharpsville in the County of Mercer, PA, a total distance of 1.3 miles effective on December 23, 1981.

The net liquidation value of this line is –0–. If, within 120 days from the date of this publication, Conrail receives a bonafide 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 division of joint rates for through-routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-1594 Filed 1-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 30N)]

Rail Carriers; Conrail Abandonment Between Sharon and Wheatland, 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 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Sharon and Wheatland in the County of Mercer, PA, a total distance of 4.3 miles effective on December 23, 1981.

The net liquidation value of this line is $397,978. 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 division of joint rates for through-routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-1592 Filed 1-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-No. 82)B]

Rail Carriers; Illinois Central Gulf Railroad Co.—Abandonment—Between Milepost 251.9 at Godfrey, IL and Milepost 256.88 in Madison County, IL; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Illinois Central Gulf Railroad Company to abandon a 4.98 mile line of railroad (and 1.26 miles of sidetrack) extending from railroad milepost 251.9 at Godfrey, IL, to milepost 256.88 in Madison County, IL, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Richard A. Kelly, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-1589 Filed 1-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 56)]

Rail Carrier; Seaboard Coast Line Railroad Company—Abandonment—in Chesterfield County and City of Petersburg, VA; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Seaboard Coast Line Railroad Company to abandon its rail line between milepost S-21.98 to milepost S-22.96, a distance of 0.98 mile, in Chesterfield County and

the City of Petersburg, VA, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Richard A. Kelly, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-1588 Filed 1-21-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council Committees; Meetings and Agenda

The winter meetings of the Committees on Productivity-Foreign Labor and Economic Growth will be held on Wednesday, February 10, 1982, in room S4215, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda of the meetings are as follows:

Wednesday, February 10

9:30 a.m.—Committee on Productivity-Foreign Labor

1. Results of the survey of committee members response on productivity program priorities.
2. Status reports on: (a) Construction industry studies; (b) Industry productivity studies; (c) Federal Government Productivity Measurement Program; (d) Hours worked survey.
3. Other Business.

Wednesday, February 10

1:30 p.m.—Committee on Economic Growth

1. Program cuts for Fiscal Year 1982
2. Status of procurment for macro model
3. Review of work in progress: (a) Analysis of employment implications of defense buildup; (b) Analysis of machinist occupations and supply-demand prospects
4. Scheduling of other work in Office: (a) Publications; (b) Next round of projections.

The meetings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 272-5241.

Signed at Washington, D.C. this 18th day of January 1982.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 82-1673 Filed 1-21-82; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

Investigations Regarding Certifications Of Eligibility To Apply for Worker Adjustment Assistance; Breckenridge (Workers), et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 20 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 1, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 1, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213.

Signed at Washington, D.C. this 11th day of January 1982.

Marvin M. Fooks

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Breckenridge (workers)	Boston, Mass	1/4/82	12/4/82	TA-W-13,168	Sportswear—ladies'
Canal Sportswear, Inc. (ILGWU)	New York, N.Y	12/18/81	8/13/81	TA-W-13,169	Slacks—ladies'.
Courtney Garment Apparel (ILGWU)	Kansas City, Kansas	1/5/82	12/30/81	TA-W-13,170	Coats—ladies.
Crocker Technical Papers, Inc. (Paper Workers Union).	Fitchburg, Mass	12/28/81	12/15/81	TA-W-13,171	Paper, tissue—capacitor.
Holden Manufacturing Co. (workers)	Holden, Mo	1/5/82	12/16/81	TA-W-13,172	Sportswear, dresses—ladies.
Keye Coat Co. (workers)	Passaic, N.J	12/29/81	12/23/81	TA-W-13,173	Coats and jackets—Jr's and childrens'.
May Knitting Company (workers)	New York, N.Y	1/4/82	12/22/81	TA-W-13,174	Sweaters—childrens'.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Rice Coat & Suits Co. (ILGWU)	Kansas City, Mo	1/5/82	12/16/81	TA-W-13,175	Coats—ladies'.
Sandler of Boston, Inc. (workers)	Norwood, Ma	12/29/81	12/22/81	TA-W-13,176	Warehouse, shipping, executive office.
United Togs, Inc. (ILGWU)	Long Island City, N.Y	1/4/82	12/14/81	TA-W-13,177	Sportswear—ladies'.
U.S. Steel Corp., Gary Works (workers)	Gary, Indiana	1/4/82	1/4/82	TA-W-13,178	Steel and tin.

[FR Doc. 82-1669 Filed 1-21-82; 8:45 am]

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Scranton Foods Inc. et al.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period.

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-12,548; Scranton Foods, Inc., Dunmore, PA

TA-W-11,699; Mighty-Mac, Inc., Gloucester, MA

Affirmative Determinations

TA-W-12,263; Powermatic Div. of Houdaille Industries, Inc., McMinnville, Tenn

A certification was issued in response to a petition received on February 6, 1981 covering all workers employed in the assembly of Logan Lathes separated on or after February 4, 1980.

With regard to all workers engaged in employment related to the production of wood and metal working tools other than workers employed in the assembly of Logan Lathes, the investigation revealed that criterion (3) has not been met.

I hereby certify that the aforementioned deteminations were issued during the period January 4–8, 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: January 12, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-1670 Filed 1-21-82; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-13; Exemption Application No. D-2511]

Exemption From the Prohibitions for Certain Transactions Involving the Heifetz Pension Plan Located in Wood-Ridge, New Jersey

AGENCY: Pension and Welfare Benefit Programs Office (P&WBP), Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the past sale of a U.S. Treasury Note by the Heifetz Pension Plan (the Plan) to Claire I. Heifetz, a trustee of the Plan (the Trustee).

EFFECTIVE DATE: July 26, 1978.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton 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) 523-7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the **Federal Register** (46 FR 57163) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b) (1) and (2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the transaction described in an application filed on behalf of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. 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. Futhermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a $5,000 U.S. Treasury Note, bearing interest at 7¾%, by the Plan to the Trustee on July 26, 1978 for $4,977.60 cash, provided the amount received by the Plan was not less than the fair market value of the note at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 13th day of January 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. 82-1288 Filed 1-21-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-14; Exemption Application No. D-2512]

Exemption From the Prohibitions for Certain Transactions Involving the Heifetz Profit Sharing and Retirement Plan and the Heifetz Pension Plan Located in Wood-Ridge, New Jersey

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the past sale of a U.S. Treasury Note by the Heifetz Profit Sharing and Retirement Plan (the Profit Sharing Plan) to the Heifetz Pension Plan (the Pension Plan) on October 27, 1976. The Pension Plan and the Profit Sharing Plan had the same trustees at the time of the sale.

EFFECTIVE DATE: October 7, 1976.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton 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) 523–7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the **Federal Register** (46 FR 57161) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act), for the transaction described in an application filed on behalf of the Plans. 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. No public comments and no requests for a hearing were received by the Department.

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 does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. 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 a exemption affect the requirement of section 401(a) of the Internal Revenue Code (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(a) and 406(b) (1) and (3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or admininstrative 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 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 Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the restrictions of section 406(b)(2) of the Act shall not apply to the past sale of a $5,000 U.S. Treasury Note, bearing interest at 7¾%, by the Profit Sharing Plan to the Pension Plan for the amount of $5,263.30, paid in cash, provided this amount was the fair market value of the note at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 13th day of January 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. 82-1287 Filed 1-21-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-16; Exemption Application Nos. D-2843 and D-2844]

Exemption From the Prohibitions for a Certain Transaction Involving Oppenheimer Funds Self-Employed Individual Retirement Plan and the Master Profit Sharing Retirement Plan for Self-Employed Individuals With the Home Savings Bank—Boston, of Edwin T. Nadeau Located in Winchester, Massachusetts

AGENCY: Pension and Welfare Benefit Programs (P&WBP) Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the loan of $26,800 by the Oppenheimer Funds Self-Employed Individual Retirement Plan (the Oppenheimer Plan) and the Master Profit Sharing Retirement Plan for Self-Employed Individuals with the Home Savings Bank—Boston (the Home Bank Plan) of Edwin T. Nadeau (Nadeau) to Mr. Nadeau and Patricia E. Nadeau, his wife and participant in the Plan.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton 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) 523-7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the **Federal Register** (46 FR 57167) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption 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 the application filed on behalf of Mr. Nadeau. 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. 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 4975(c)(2) of the Code does not relieve a fiduciary or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; 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 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of 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 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, 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 Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan of $26,800 by the Oppenheimer Plan and the Home Bank Plan to the Nadeaus provided the terms of the loan are not less favorable to the Plans than those obtainable in an arms-length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 13th day of January 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. 82-1286 Filed 1-21-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-15; Exemption Application Nos. D-2605, D-2606, and D-2607]

Exemption From the Prohibitions for a Certain Transaction Involving the Palmetto Spinning Corporation Salaried and Clerical Employee Profit Sharing Plan, the Palmetto Spinning Corporation Hourly Employee Profit Sharing Plan, and the Palmetto Spinning Corporation Salaried and Clerical Employee Pension Plan Located in Laurens, South Carolina

AGENCY: Pension and Welfare Benefit Programs (P&WBP), Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the purchase by the Palmetto Spinning Corporation Salaried and Clerical Employee Profit Sharing Plan, the Palmetto Spinning Corporation Hourly Employee Profit Sharing Plan, and the Palmetto Spinning Corporation Salaried and Clerical Employee Pension Plan (the Plans) of a portion of a loan (the Loan) to be made to the Palmetto Spinning Corporation and its wholly-owned subsidiary, Bulkspun Mills, Inc. (collectively, the Employer) by Citizens and Southern Financial Corporation (C&S), an unrelated party.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton 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) 523-7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the **Federal Register** (46 FR 57169) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the transaction described in an application filed on behalf of the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notification to 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 Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

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 purchase by the Plans of an interest in the Loan to be made to the Employer by C&S in an amount not to exceed 40% of the total assets of the Plans, provided the terms of the Loan are as favorable to the Plans as 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 transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 13th day of January 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. 82-1289 Filed 1-21-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-10; Exemption Application No. D-2700]

Exemption From the Prohibitions for Certain Transactions Involving First Federal Savings and Loan Association Located in Phoenix, Ariz.

AGENCY: Pension and Welfare Benefit Program Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) The past and proposed sale, exchange or transfer between First Federal Savings and Loan Association of Arizona (First Federal) and certain pension plans (the Plans) of pools of mortgage loans (Pools) or participation interests (Participation Interests) in the Pools, which are packaged by First Federal and the holding of such Pools or Participation Interests by the Plans. This exemption would apply solely to First Federal and the Plans; and (2) certain past and proposed transactions related to the servicing and operation of the Pools or Participation Interests by First Federal.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler 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) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the **Federal Register** (46 FR 57158) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and (2) and 407 of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for

exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was distributed in accordance with the provisions set forth in the proposed exemption. No requests for a hearing were received by the Department, however, the Department did receive one public comment. The commentator expressed his support and approval of the proposed exemption. 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 transaction 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 Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1.

(I) Effective January 1, 1975, the restrictions of sections 406(a) and 407 of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c) (1) (A) through (D) of the Code, shall not apply to the sale, exchange or transfer of the Pools or Participation Interests only between the Plans and First Federal and the holding of such Pools or Participation Interests by the Plans provided that:

A. Such sale, exchange or transfer is expressly approved by a fiduciary independent of First Federal who has authority to manage or control those Plan assets being invested in the Pools or Participation Interests;

B. The Plan pays no more for the Pools or Participation Interests than would be paid in an arm's length transaction with an unrelated party;

C. No investment management, advisory, underwriting fee or sales commission or similar compensation is paid to First Federal with regard to such sale, exchange or transfer; and

D. The following record-keeping requirements are satisfied:

(1) First Federal shall maintain for the duration of any Pool or Participation Interest therein which is sold to a Plan pursuant to this exemption, records necessary to enable the persons described in paragraph (2) of this section to determine whether the conditions of this exemption have been met, except that:

(a) A prohibited transaction will not be deemed to have occurred, if, due to circumstances beyond the control of First Federal, records are lost or destroyed prior to the termination of a Plan's holding of a Pool or Participation Interest,

(b) No party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained or are not available for examination as required by paragraph (2) below; and

(2) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (1) of this section must be unconditionally available at their customary location for examination, for purposes reasonably related to protecting rights under the Plans, during normal business hours by: any trustee, investment manager, employer of Plan participants, employee organization whose members are covered by a Plan, participant or beneficiary of a Plan, or any duly authorized employee or representative of such person or of the Department or the Internal Revenue Service.

(II) Effective January 1, 1975, the restrictions of section 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply to transactions in connection with the servicing and operation of the Pools or Participation Interests by First Federal provided that:

A. Such transactions are carried out in accordance with the terms contained in the Loan Agreement;

B. The Loan Agreement is made available to Plan fiduciaries before they purchase Pools or Participation Interests; and

C. The sum of all payments made to, retained by, or inuring to the benefit of First Federal as a result of the administration of the Pools and Participation Interests represents not more than adequate consideration for such sale, exchange or transfer.

(III) Effective January 1, 1975, the restrictions of sections 406(a) and 407 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 any transactions to which such restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest

(including a fiduciary) with respect to a Plan by virtue of providing services to the Plan (or who has a relationship to such service provider described in section 3(14) (F), (G), (H) or (I) of the Act solely because of the ownership of a Pool or Participation Interest by such Plan.

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 that are the subject of the exemption.

Signed at Washington, D.C., this 15th day of January 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. 82-1407 Filed 1-21-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-17; Exemption Application No. D-2546]

Exemption From the Prohibitions for Certain Transactions Involving the Mingledorff's, Inc. Profit Sharing Plan Located in Atlanta, Ga.

AGENCY: Pension and Welfare Benefits Program Office, Labor

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the leasing of real property located in Atlanta, Georgia (the Property) by the Mingledorff's, Inc. Profit Sharing Plan (the Plan) to Mingledorff's, Inc. (the Employer), and the guarantee by the Employer of the payment of the Plan's loan from the Life Insurance Company of Georgia (LICG), the proceeds of which were used to purchase the Property. The transactions were entered into before the effective date of the Employee Retirement Income Security Act of 1974 (the Act), but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act.

EFFECTIVE DATES: This exemption is effective from January 1, 1975 to January 31, 1982.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz 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) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the **Federal Register** (46 FR 57189) 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 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 transactions described in an application filed on behalf of the Employer, the Plan and Trust Company Bank (the Trustee). 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 applicants have represented that they have complied with the requirements of the notice 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 statutory or adminmistrative 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 leasing by the Plan to the Employer of the Property, located at 170 Ottley Drive, NE., Atlanta, Georgia, and to the guarantee by the Employer of the payment of the Plan's loan from LICG, for the period from January 1, 1975 until January 31, 1982, provided the rental payments were not less than fair rental value, and that the Property is sold to an unrelated third party no later than January 31, 1982, for a price which is no less than its fair market value on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 15th day of January 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. 82-1408 Filed 1-21-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-18; Exemption Application No. D-2554]

Exemption From the Prohibitions for Certain Transactions Involving the Robert V. Bain, M.D., P.C., Defined Benefit Pension Plan and Trust Located in Salem, Oreg.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the contribution on December 31, 1980, by Robert V. Bain, M.D., P.C. (the Employer) to the Robert V. Bain, M.D., P.C., Defined Benefit Pension Plan and Trust (the Plan) of an option to purchase certain real property.

Since Dr. Bain is the sole shareholder and employee of the Employer and the only participant in the Plan, the Plan is not subject to Title I of the Employee Retirement Income Security Act of 1974 (the Act), including section 406, pursuant to 29 CFR 2510.3-3(c)(1). However, the Plan is subject to Title II of the Act, which includes section 4975 of the Internal Revenue Code of 1954 (the Code).

EFFECTIVE DATE: This exemption is effective on December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, 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) 523-8671. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 11, 1981, notice was published in the Federal Register (46 FR 60670) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code, for the transaction mentioned above. 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. 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 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; 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 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of 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 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 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 contribution on December 31, 1980, by the Employer to the Plan of an option to purchase certain real property, provided the option was valued at its fair market value on such date.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 15th day of January 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. 82-1409 Filed 1-21-82; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-1)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Ad Hoc Solar System Exploration Committee.

DATE AND TIME: February 8-9, 1982, 8:30 a.m. to 5 p.m. and February 10, 1982, 8:30 a.m. to 12 noon.

ADDRESS: Student Union Building, Room 102, University of Arizona, Tucson, AZ 85721.

FOR FURTHER INFORMATION CONTACT: Mrs. Diane M. Mangel, National Aeronautics and Space Administration, Code EL-4, Washington, DC 20546 (202/755-3728).

SUPPLEMENTARY INFORMATION: The Informal Ad Hoc Solar System Exploration Committee was established under the NASA Advisory Council to translate the scientific strategy developed by the Committee on Planetary Exploration (COMPLEX) into a realistic, technically sound sequence of missions consistent with that strategy and with resources expected to be available for solar system exploration.

The committee will report its findings to the Council and to NASA. The committee is chaired by Dr. Noel W. Hinners and is composed of four other

members of the Council and its standing committees, who will meet with about 9 other invited participants and certain NASA personnel.

The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons, including committee members and invited meeting participants). Visitors will be requested to sign a visitor's register.

Type of Meeting:

Open

Agenda

February 8, 1982
8:30 a.m.—Organization and Budget of Office of Space Science and Applications
1:30 p.m.—Inner Planets Working Groups
5 p.m.—Adjourn

February 9, 1982
8:30 a.m.—Outer Planets and Small Bodies Working Groups
1:30 p.m.—Mariner Pioneer Plans and Viking Class Missions 4 p.m.—Space Operations Center
5 p.m.—Adjourn

February 10, 1982
8:30 a.m.—Discussion and Planning for Solar System Exploration Committee Report and Remaining Meetings
12:00 noon—Adjourn

Dated: January 15, 1982.

Robert F. Allnutt,

Acting Associate Administrator for External Relations.

[FR Doc. 82-1531 Filed 1-21-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506:

1. Date: February 3-5, 1982
Time: February 3, 7:00 p.m. to 9:30 p.m., February 4, 8:30 a.m. to 6:00 p.m.; February 5, 8:30 a.m. to 5:00 p.m.
Room: 807
Program: This meeting will review applications submitted for the Humanities Projects in Media Program, Division of Public Programs, for projects beginning after July 1, 1982.
2. Date: March 3-4, 1982
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of Public Programs, for projects beginning after July 1, 1982.
3. Date: March 10, 11, and 12, 1982
Time: 8:30 a.m. to 5:30 p.m. on March 10 and 11, 1982; 8:30 to 12:00 noon to March 12, 1982
Room: 807
Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of Public Programs, for projects beginning after July 1, 1982.

The proposed meetings are for the purpose of panel review, discussion evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose;

(1) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) information the disclosure of which would significantly frustrate implementation of proposed agency action;

Pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9) (B) of section 552d of Title 5 United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McClearly, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call 202-724-0367.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 82-1675 Filed 1-21-82; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-358-OL]

Cincinnati Gas & Electric Co. (William H. Zimmer Nuclear Power Station, Unit No. 1); Amended Notice of Hearing

January 18, 1982.

In a Notice of Hearing of January 7, 1982, the evidentiary hearing in this matter was scheduled to reconvene January 25 through 29, February 1 through 5, and February 22 through 26, 1982.

There is no change in the schedule or location for the week of January 25 through 29. The hearing will reconvene at 1:00 p.m. in Courtroom 805 in the U.S. Post Office and Courthouse, 5th and Walnut Streets, Cincinnati, Ohio. On subsequent days that week, the hearing will begin at 9:00 a.m. and run until approximately 5:00 p.m.

The second week of the reconvened hearing will begin on Tuesday, February 2, 1982, rather than Monday, February 1, as originally announced. The hearing will begin at 9:00 a.m. and run until approximately 5:00 p.m. each day that week. The location remains the same as the first week.

The third week of the reconvened hearing is postponed from the week of February 22 through 26, 1982, to the week of March 1 through 5, 1982, at a location to be announced subsequently.

As previously announced, these hearing sessions will be concerned with emergency planning and monitoring with respect to the application to operates the Zimmer Nuclear Power Station. The Board will entertain oral limited appearance statements from members of the public the afternoon of January 25. In the event that there are a large number of individuals who desire to make such statements, the Board will limit each statement to approximately five minutes. Written statements may be filed with the Board at any time.

Dated at Bethesda, Maryland, the 18th day of January, 1982.

It is so ordered.

For the Atomic Safety and Licensing Board.

John H. Frye, III,

Chairman, Administrative Judge.

[FR Doc. 82-1613 Filed 1-21-82; 8:45am]

BILLING CODE 7590-01-M

[Docket No. 50-537]

Department of Energy et al.; Prehearing Conference

January 18, 1982.

In the matter of United States Department of Energy; Project Management Corp.; Tennessee Valley Authority (Clinch River Breeder Reactor Plant).

The Applicants filed a motion of January 11, 1982 to lift the suspension of hearings in this proceeding and to set a prehearing conference. No objections to this motion have been received.

In light of the President's statement on nuclear power issued on October 8, 1981, and the Commission's Order of December 24, 1981 establishing procedures for its decision on the Applicants' Section 50.12 request for authorization to commence site preparation activities, there is no reason for this proceeding to remain suspended. Accordingly, the Board's suspension order dated April 25, 1977 is hereby terminated.

A prehearing conference will be held on Tuesday, February 2, 1982 commencing at 9:00 a.m., local time, at the Oak Ridge School Administration Building in the Conference Seminar Room, located at New York and Newcomb Avenues, Oak Ridge, Tennessee. This prehearing conference will consider status reports on all aspects of this proceeding, as well as suggestions by the parties for a schedule to govern further activities.

Dated at Bethesda, Maryland this 18th day of January 1982.

It is so ordered.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

Chairman, Administrative Judge.

[FR Doc. 82-1614 Filed 1-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-142-OL]

The Regents of the University of California (UCLA Argonaut-Type Research Reactor); Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for *The Regents of the University of California*, UCLA Argonaut-Type Research Reactor, Docket No. 50-142-OL, is hereby reconstituted by appointing the following Administrative Judge to the Board: John H. Frye, III. Elizabeth S. Bowers was chairman of this Board, but, because of her imminent retirement, is unable to continue to serve.

As reconstituted, the Board is comprised of the following Administrative Judges: John H. Frye, III, Chairman; Dr. Emmeth A. Luebke; Dr. Oscar H. Paris.

All correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board Chairman is: Judge John H. Frye, III, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland this 18th day of January 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-1615 Filed 1-21-82; 8:45 am]

BILLING CODE 7590-01-M

Revised Training and Experience Criteria for Nuclear Medicine Physicians

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of proposed training and experience criteria for nuclear medicine physicians, including nuclear cardiologists.

SUMMARY: The Nuclear Regulatory Commission is publishing, for public comment, a draft revision of its training and experience criteria for physicians who request authorization to use reactor produced radioactive isotopes (byproduct material) for nuclear medicine procedures, including nuclear cardiology. This revision increases the minimum time appropriate for a physician to obtain acceptable training and experience for authorization to perform diagnostic nuclear medicine studies, including nuclear cardiology studies.

EFFECTIVE DATE: Comment period expires March 8, 1982. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Interested persons are invited to submit written comments and suggestions on this notice to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Docketing and Service branch. Copies of comments received by the Commission may be examined at the Commission's Public Document room at 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Joseph DelMedico, Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, 301-427-4232. Copies of the criteria currently in use may also be obtained at this address.

SUPPLEMENTARY INFORMATION: NRC is publishing in draft form, for public comment, a proposed revision to Appendix A of Regulatory Guide 10.8. Appendix A concerns training and experience criteria for physicians who apply for authorization to use byproduct material in medical diagnosis and therapy.

By way of background, NRC's objective is to ensure that authorized physician-users have sufficient training and experience to handle safely the byproduct material used in nuclear medicine. The current criteria are stated in Appendix A of Regulatory Guide 10.8.

The proposed revision to Appendix A has been recommended by the NRC's Advisory Committee on the Medical Uses of Isotopes (ACMUI), and by various professional groups including the Federated Council of Nuclear Medicine Organizations. The ACMUI discussed this topic at public meetings held on January 18, 1980, August 18, 1980 and August 31, 1981. Information concerning these meetings is available in 44 FR 73170, 45 FR 42904 and 46 FR 32354. Copies of the meeting transcripts are available from NRC's Public Document Room.

Essentially, the revised criteria indicate that physicians who apply for authorization to use byproduct material for diagnostic nuclear medicine studies, including nuclear cardiology studies, should normally have a minimum of six months of special education, training and experience in these uses. The present criteria is three months training.

The proposed revised criteria would not affect physicians who are presently authorized to perform these studies, but would apply to physicians who seek to enter the field for the first time. At the time that the revision is published in final form, an effective date will be established to ensure that physicians who are currently enrolled in nuclear medicine training programs will not be affected and to allow the various training programs sufficient time to restructure their curricula. Written comments or suggestions from the public may address an appropriate effective date as well as the proposed revision itself.

The proposed Appendix A is printed in its entirety below:

Appendix A

Acceptable Training and Experience for Medical Uses of Byproduct Material

I. General Criteria

Any human use [1] of byproduct material must be carried out by or under the supervision of a physician.[1] This appendix outlines training and experience criteria that the Commission, with the assistance of the physician and health physics specialists of NRC's Advisory Committee on the Medical Uses of Isotopes (ACMUI), has found acceptable for physicians who wish to use byproduct material for human use. We recommend that this training and experience be obtained in a formal, accredited training program for resident physicians.

Physician training and experience can be examined on a case-by-case basis. A physician wishing to use radioactive materials but not having the training and experience described, may submit an application listing specific qualifications; and these will be reviewed by the Commission with the assistance of the ACMUI.

II. Acceptance of Medical Specialty Board Certification

Certification by the medical specialty boards listed in Table 1 will be accepted as evidence that a physician has had adequate training and experience for the corresponding procedures listed in the table.

III. Documenting Training and Experience

Supplements A and B of Form NRC 313M are used to document training and experience. Physicians who wish to qualify on the basis of board certification need only complete Items 1., 2. and 3. on Supplement A. Other applicants should submit Supplements A and B with all items completed. A separate Supplement B form should be completed and signed by each preceptor who provided training or supervised experience. The remaining sections of this appendix specify training and experience criteria for specific procedures or groups of procedures.

IV. Time Limitation on Acceptable Training and Experience

Training and experience must have been obtained within five years of the date of the application, or else the applicant must demonstrate continuing involvement in the procedures since the time of training.

[1] As defined in 10 CFR 35.3

V. Training for Routine Diagnostic Procedures (Groups I–III, Including Nuclear Cardiology Procedures)

To qualify as adequately trained to use or directly supervise the use of byproduct material listed in Groups I, II, and III in § 35.100 of 10 CFR Part 35, a physician should have the training and experience listed in Table 2.

VI. Training for Specific Diagnostic Procedures

A physician who wishes to be authorized for only one or two specific diagnostic procedures should have training in basis radioisotope handling techniques and clinical experience commensurate with the quantities and uses of byproduct material being requested. Such requests will be examined case-by-case by the Commission with the assistance of the ACMUI.

VII. Training for Therapy Procedures Involving Radiopharmaceuticals (Groups IV and V)

A. Physicians who meet the criteria for Groups I–III may qualify to perform specific therapy procedures with the following clinical experience:

1. *For Group IV*

(a) I–131 for treatment of hyperthyroidism and/or cardiac conditions: Clinical experience in the diagnosis of thyroid function and active participation in the treatment of ten patients.

(b) Soluble P–32 for treatment of polycythemia vera, leukemia, and/or bone metastases:

Active participation in the treatment of three patients with any combination of these three conditions.

(c) Colloidal P–32 for itracavitary treatment;

Active participation in the treatment of three patients.

2. *For Group V*

(a) I–131 for treatment of thyroid carcinoma: Clinical experience in diagnosis of thyroid function, personal participation in the treatment of ten patients with hyperthyroidism and/or cardiac dysfunction, and active participation in the treatment of three patients with thyroid carcinoma.

(b) Colloidal Au–198 for intracavitary treatment: Active participation in the treatment of three patients.

B. To perform *only* Groups IV and V therapy procedures, physicians who do *not* meet the criteria for Groups I–III must obtain the specific clinical experience listed in VII. A. above and, as a minimum:

Training in basic radioisotope handling techniques applicable to the use of unsealed sources for therapy procedures (80 hours), including:

1. Radiation physics and instrumentation (25 hours)

2. Radiation protection (25 hours)

3. Mathematics pertaining to the use and measurement of radioactivity (10 hours)

4. Radiation biology (20 hours)

VIII. Training for Therapy Procedures Involving Sealed Sources (Group VI)

When a physician is not board certified in one of the radiation therapy specialties listed in Table 1., his or her training will be reviewed with the assistance of the ACMUI. In addition to Supplements A and B as described in Section III. above, the applicant should submit letters of evaluation from each physician who served as preceptor. These letters of evaluation should describe the scope and extent of the applicant's training and experience and should state whether, in the opinion of the preceptor, the applicant is fully qualified to independently perform Group VI therapy procedures.

To qualify as adequately trained to use or directly supervise the use of byproduct material listed in Group VI of § 35.100, 10 CFR Part 35, a physician should have the training and experience listed in Table 3.

IX. Training for Physicians Wishing To Use SR–90 Eye Applicators Only

To qualify as adequately trained to use or supervise the use of a SR–90 eye applicator only, a physician should submit:

A. Evidence of certification by the American Board of Radiology in Radiology or Therapeutic Radiology, or

B. Evidence of:

1. Active practice in therapeutic radiology or ophthalmology, and

2. Training in basic radioisotope handling techniques (24 hours), including:

a. Radiation physics and instrumentation (6 hours)

b. Radiation protection (6 hours)

c. Mathematics pertaining to the use and measurement of radioactivity (4 hours)

d. Radiation biology (8 hours)

This information should be submitted on Supplement A of Form NRC–313M. The hours listed next to each of the four subjects are suggested minimum values and should not be interpreted as specific requirements.

3. Evidence of active participation in the treatment of five patients (to be submitted on Preceptor Statement, Form NRC 313M, Supplement B).

"Active participation" should include supervised examination of patients, collaboration and calculations concerning the dose to be administered, administration of the dose to the patient, followup and study of patient case histories.

Table 1

Acceptance of Medical Specialty Board Certification

A. The following medical specialty boards will be accepted as evidence that a physician has had adequate training and experience for the procedures listed below:

Board	Specialty	Procedures (Groups)
American Board of Nuclear Medicine.	Nuclear Medicine	I–V.
American Board of Radiology.	Diagnostic Radiology with Special Competence in Nuclear Radiology.	I–III.
	Radiology	VI.
	Therapeutic Radiology	VI.
American Osteopathic Board of Radiology.	Radiation Oncology	V & VI.
British Faculty of Radiology *.	Radiology	VI.
British Royal College of Radiology *.	Radiology	VI.
Canadian Royal College of Physicians and Surgeons.	Therapeutic Radiology	VI.

B. The following Medical Specialty Boards will be accepted as evidence that a physician has had adequate training and experience for the corresponding list of procedures; however, the board examination must have been passed within five years prior to the date of the application, or else the physician must demonstrate continuing involvement in the procedures since the time of the board certification:

Board	Specialty	Procedures (Groups)
American Osteopathic Board of Radiology.	Diagnostic Radiology.	I–III.
	Radiology	I–III.

*Applicants must also submit evidence of specialization in radiotherapy.

Table 2.—Training for Routine Diagnostic Procedures (Groups I–III, Including Nuclear Cardiology Procedures)

Concurrent Training in Six Month Programs

The criteria specified below may be satisfied concurrently in a formal, integrated six month training program for resident physicians in an accredited nuclear medicine (or nuclear cardiology) curriculum. Note, however, that *all* of the requirements in Sections A., B., and C. must be fully integrated into the program. Physicians who do not receive their training in such a program should obtain the specified number of hours in each area:

A. Training in the basic radioisotope handling techniques *specifically applicable to the use of unsealed sources.* This training should consist of lectures, laboratory sessions, discussion groups, and supervised experience in a nuclear medicine laboratory in the following areas: (200 hours).

1. Radiation physics and instrumentation (100 hours).
2. Radiation protection (30 hours).
3. Mathematics pertaining to the use and measurement of radioactivity (20 hours).
4. Radiation biology (20 hours).
5. Radiopharmaceutical chemistry (30 hours).

(The hours listed next to each of the five subjects above are suggested values and should not be interpreted as specific requirements)

B. Experience handling unsealed radioactive materials under the supervision of a qualified instructor (500 hours). This experience should cover the types and quantities of byproduct material requested in the application and should include:

1. Ordering, receiving, and unpackaging radioactive materials safely, including performance of the related radiation surveys.
2. Calibration of dose calibrators and diagnostic instrumentation, and performance of operational checks on survey meters.
3. Calculation, preparation and calibration of patient doses, including radiation safety considerations.
4. Administration of doses to patients, including proper use of syringe shields.
5. Appropriate internal control procedures to prevent the misadministration of materials to patients.
6. Emergency procedures to handle and contain spilled materials safely, including related decontamination procedures.
7. Elution of Tc–99m from generator systems, assay and testing of the eluate for Mo–99 and alumina contamination, and processing the eluate with reagent kits to prepare Tc–99m labeled radiopharmaceuticals. (Required when physicians apply for Group III authorization. Group III includes generators and reagent kits.)

C. Supervised clinical training in an institutional nuclear medicine (or nuclear cardiology) program (500 hours). The clinical training should cover all appropriate types of diagnostic procedures and should include:

1. Supervised examination of patients to determine the suitability for radioisotope diagnosis and recommendation on dosage to be prescribed.
2. Selection of the proper radipharmaceutical and dosage, calculation of the related radiation dose and collaboration in the interpretation of the radioisotope test results.
3. Followup of patients when required.
4. Study and discussion with preceptor of case histories to establish the most appropriate diagnostic procedures, limitations, contraindications, etc.

Table 3.—Training for Therapy Procedures Involving Sealed Sources (Group VI)

To qualify as adequately trained to use or directly supervise the use of byproduct material listed in Group VI of § 35.100, 10 CFR Part 35, a physician should have:

A. Training in basic radioisotope handling techniques *specifically applicable to the use of sealed sources for therapy procedures,* consisting of lectures, laboratory sessions, discussion groups, and supervised experience in the following areas: (200 hours).

1. Radiation physics and instrumentation (110 hours).
2. Radiation protection (40 hours).
3. Mathematics pertaining to the use and measurement of radioactivity (25 hours).
4. Radiation biology (25 hours).

(The hours listed next to each of the four subjects above are suggested values and should not be interpreted as specific requirements)

B. Experience handling sealed radionuclide therapy sources under the supervision of a qualified instructor (500 hours). This experience should cover the types and quantities of byproduct material requested in the application and should include:

1. Ordering, receiving, and unpackaging sealed sources safely, including performance of the related radiation surveys.
2. Performance of operational checks on ion chambers and survey meters.
3. Safe handling of sealed sources during preparation, insertion and removal.
4. Quality control and emergency procedures.

C. Clinical training in Group VI procedures: Active practice in therapeutic radiology with a minimum of 3 years experience of which at least 1 year should have been in a formal training program approved by the Residency Review Committee for

Radiology of the Accreditation Council for Graduate Medical Education.

Dated at Silver Spring, MD this 11th day of January 1982.

For the Nuclear Regulatory Commission.

Richard E. Cunningham,

Director, Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 82-1616 Filed 1-21-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Proposed New System and Amendment of an Existing System

AGENCY: Office of Personnel Management.

ACTION: Notice; Proposed new system and amendment of an existing system.

SUMMARY: The purpose of this notice is to propose the establishment of a new Government-wide system of records for performance-related records maintained in an Employee Performance File (EPF) system, including supervisor/manager's work folders where they exist. Because the records maintained in this EPF system are now covered by the Office's General Personnel Records system, it is also necessary to amend that system notice to reflect coverage of such records under the system being proposed.

COMMENT DATE: Comments must be received on or before February 22, 1982.

ADDRESS: Send or deliver written comments to: Deputy Assistant Director for Work Force Information (ACE), Office of Personnel Management (Room 6429), 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: William H. Lynch, Records Management Branch, Work Force Information Division, (202) 254-9790/9793.

SUPPLEMENTARY INFORMATION: Under the provisions of the Civil Service Reform Act of 1978, Pub. L. 95-454, as codified in Chapter 43, Subchapters I and II, title 5, U.S. Code the Office of Personnel Management is required to prescribe regulations to implement the establishment of agency performance appraisal systems. Under this authority, the Office has issued regulations at 5 CFR 293, requiring the establishment of an official Employee Performance File (EPF) system which pemits maintenance of performance-related data in several locations (including work folders maintained by supervisors/managers, i.e., rating officials) on employees. Records in the EPF system are considered companion records to, but separate from, the Official Personnel Folder (OPF). These regulations also apply to employees of instrumentalities that are not subject to the provisions of Chapter 43 of title 5, but whose OPFs are under the control of the Office. Performance-related records for those agencies are also part of this new system.

Up to this time, the Office has considered records/files maintained by agencies to implement an Office-approved performance appraisal plan as being part of the Office's Government-wide Privacy Act system of records identified as OMP/GOVT-1, General Personnel Records (45 FR 78415). Performance appraisal records of employees not subject to Chapter 43 provisions, maintained in an Office-controlled OPF, were also covered by this system of records. The Office believes that agencies, employees, and other interested parties will be better served by placing such records in this proposed new Government-wide system of records. This action facilitates accuracy in the decription of the categories of records in the folders, the identification of the purposes for which the records are maintained, and appropriately narrows the scope of the routine uses permitted of the information.

Although the Office's regulations permit agencies to opt for use of an envelope (with retention of the envelope in the OPF) in lieu of a separate file or for automated or microform versions for these records, records in such an envelope or other form are still considered to be part of this new system and may be disclosed only pursuant to routine uses promulgated in the system notice, to be identified as OPM/GOVT-2, Employee Performance File System Records. Therefore, this proposal calls for the modification of the notice for the OPM/GOVT-1 system and the establishment of the new OPM/GOVT-2 system. This action is considered subject to the provisions of the Privacy Act (5 U.S.C. 552a(o)) requiring advance notice to Congress and the Office of Management and Budget. A Report on New Systems has been filed, concurrent with this publication, with Congress and the Office of Management and Budget. No waiver of the 60 day advance notice period has been requested. The complete text of the changed sections of OPM/GOVT-1 and the entire notice for the new OPM/GOVT-2 system appear below.

Office of Personnel Management.

Donald J. Devine,

Director.

OPM gives notice of changes to the OPM/GOVT-1, General Personnel Records system and proposed a new OPM/GOVT-2, Employee Performance File System Records as follows:

OPM/GOVT-1

SYSTEM NAME:

General Personnel Records.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

All categories of records may include identifying information such as name(s), date of birth, home residence, mailing address, Social Security Number, and home telephone. This system includes contents of the Official Personnel Folder as specified in Federal Personnel Manual Supplement 293-31. Records in this system are:

a. Records reflecting work experience, educational level achieved, and specialized education or training occurring outside of Federal service.

b. Records reflecting Federal service and documenting work experience and specialized education or training received while employed. Such records contain information about: past and present positions held; grades, salaries, and duty station locations; and notices of all personnel actions such as: appointments, transfers, reassignments, details, promotions, demotions, reductions in force, resignations, separations, suspensions, Office approval of disability retirement applications, retirement, and removals.

c. Records relating to enrollment or declination of enrollment in the Federal Employees Group Life Insurance Program and Federally sponsored health benefit programs, as well as forms showing designation of beneficiary.

d. Records of a medical nature including records compiled during an agency initiated fitness for duty examination or request for approval of disability retirement. Such medical records are to be retained in separate envelopes from the Official Personnel Folder (OPF) and include records of medical examinations that are to remain as a permanent record in the OPF (see "Retention and disposal" section below).

Note.—This system does not cover agency dispensary records or records of drug or alcohol abuse counseling or other such counseling records. Nor does it include performance appraisal related documents maintained in an envelope in the OPF. These latter records are considered covered by the

OPM/GOVT–2, Employee Performance File System Records.

e. Records relating to an Intergovernmental Personnel Act assignment or Federal-private sector exchange program. (Note: Some of these records may also become part of the OPM/CENTRAL–7 Intergovernmental Personnel Act Assignment Records system.)

f. Records relating to participation in an agency Federal Executive or SES Candiate Development Program. (Note: Some of these records may also become part of the OPM/CENTRAL–3 Federal Executive Development Program records or OPM/CENTRAL–13 Senior Executive Service records systems.)

g. Records relating to Government-sponsored training or participation in an agency's Upward Mobility Program or other personnel programs designed to broaden an employee's work experiences and for purposes of advancement (e.g., an administrative intern program).

h. Records contained in the Central Personnel Data File (CPDF) maintained by the Office and exact substantive representations thereof in agency manual or automated personnel information systems. These data elements include many of the above records along with handicap and minority group designator codes. A definitive list of CPDF data elements is contained in Federal Personnel Manual Supplement 292–1.

i. Records connected with the Senior Executive Service, maintained by agencies for use in making decisions affecting incumbents of these positions, e.g., relating to sabbatical leave programs, training, reassignments, and details, that are perhaps unique to the SES and which may or may not be filed in the employee's Official Personnel Folder. These records may also serve as the basis for reports submitted to OPM's Executive Personnel and Management Development Group for purposes of implementing the Office's oversight responsibilities concerning the SES.

j. Records concerning an employee's activities on behalf of the labor organization representing agency employees, including accounting of official time spent and documentation in support of per diem and travel expenses. (Note: Alternatively, such records may be retained by an agency payroll office and thus subject to the agency's internal Privacy Act system for payroll records.)

k. To the extent that the records listed here are also maintained in an agency automated personnel or microform records system, those versions of the above records are considered to be covered by this system notice. Any additional copies of these records (including performance appraisal and conduct related documents maintained by first line supervisors and managers) maintained by agencies at field/administrative offices remote from where the original records exist are considered part of this system. Note: It is not the intent of the Office to limit this system of records to the OPF only. Records may be filed in other folders, located in offices other than where the OPF is located. Further, as indicated in the records location section, some of these records may be duplicated for maintenance at a site closer to where the employee works (e.g., in an administrative office or supervisors work folder) and still be covered by this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347, and Executive Orders 9397, 9830, and 12107.

* * * * *

RETENTION AND DISPOSAL:

a. *Quasi-Permanent Records.* The Official Personnel Folder (OPF) is retained by the employing agency as long as the individual is employed with that agency. Medical records are kept separate from the OPF while the individual is employed by an agency. When the individual transfers to another Federal agency or to another appointing office, the OPF, with permanent medical records inserted therein in a separate envelope, is sent to the agency or office. Other medical records covered by this system, i.e., fitness for duty examinations, are considered temporary in nature. Such records, when not submitted to the Office for retention in a disability retirement file (or submitted, but the Office does not approve retirement), shall be destroyed no later than six months after closing action on the case or sooner at the discretion of the agency.

Within 90 days after the individual separates from the Federal service, the OPF is sent to the National Personnel Records Center for quasi-permanent storage. In the case of a retired employee or one who dies in service, the OPF is sent to the Records Center within 120 days.

b. *Other Records.* These records are retained for varying periods of time (from one to five years). Generally these records are maintained for a minimum of one year, or until the employee transfers or separates from Federal Service.

c. Records contained on computer processible media within the Central Personnel Data File (and in agency automated personnel records), may be retained indefinitely as a basis for longitudinal work history statistical studies.

* * * * *

OPM/GOVT–2

SYSTEM NAME:

Employee Performance File System Records.

SYSTEM LOCATION:

Records maintained in this system may be located as follows:

a. In an Employee Performance File (EPF) maintained in the agency office responsible for maintenance of the employee's Official Personnel Folder (OPF) or other agency-designated office. This includes those instances where the agency uses an envelope within the OPF in lieu of a separate EPF folder.

b. In the EPF of Senior Executive Service appointees where the agency elects to have the file maintained by the Performance Review Boards required by 5 U.S.C. 4314(c)(1), or administrative office supporting the Board.

c. In any supervisor/manager's work folder maintained in the office by the employee's immediate supervisor/manager or, where agencies have determined that records management is better served, in such folders maintained for supervisors/managers in a central administrative office.

d. In an agency's automated personnel records system.

e. In any agency's microformed EPF.

Note.—Originals or copies of records covered by this system may be located in more than one location, but if they become part of an agency internal system, e.g., administrative or negotiated grievance file, those copies then would be subject to the agency's internal Privacy Act implementation guidance insofar as they are used within the agency's system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees (including Senior Executive Service appointees). Records on former employees will generally be retained no longer than one year after the employee leaves his/her employing agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system, wherever they are maintained, may, but are not required to, include any or all of the following:

a. Annual summary performance appraisals issued under employee

(including Senior Executive Service and Merit Pay) appraisal systems and any document which indicates that the appraisal is being challenged under administrative procedures (e.g., where the employee files a grievance over the appraisal received).

b. A document (either the summary appraisal form itself or a form affixed thereto) which identifies the job elements and the standards for those elements upon which the appraisal is based.

c. Supporting documentation for employee appraisals, as required by agency appraisal systems or implementing instructions, and which may or may not actually be filed with the appraisal of record, e.g., productivity and quality control records, records of employee counseling, individual development plans, or other such records as specified in agency issuances and maintained, e.g., in a work folder by supervisors/managers at the work site.

d. Records pertaining to Senior Executive Service (SES) appraisals generated by Performance Review Boards, including statements of witnesses and transcripts of hearings.

e. Written recommendations for awards, removals, demotions, denials of within grade increases, reassignments, training, pay increases, cash bonuses, or other performance-based actions (e.g., nominations of individuals for Meritorious or Distinguished Executive) including supporting documentation.

f. Statements made (either on or appended to the performance appraisal document) by the employee (e.g., a statement of disagreement with the appraisal or recommendation), in accordance with agency performance appraisal plans and implementing instructions, regarding an appraisal given and any recommendations made based on them.

Note.—Where a recommendation by a supervisor/manager or a statement made by the employee regarding the appraisal issued (or copy thereof) becomes part of another Government-wide or internal agency file (e.g., an SF 52 filed in an OPF when the action is effected or documents or statements of disagreement placed in a grievance file), that document then becomes subject to that system's notice and appropriate Office or agency Privacy Act requirements, respectively, for the system of records covering that file.

g. Records created by Executive Resource Boards regarding performance of an individual in an executive development program.

h. Records needed to support removal for unsatisfactory performance during the supervisory or managerial probationary period, during the SES appointment probationary period, or during the employee's initial period of probation after appointment.

i. Notices of commendations (which are not considered a permanent OPF document), recommendations for training such as an Individual Development Plan, and advice and counseling records that are based on work performance.

j. Copies of supervisory appraisals used in considering employees for promotion or other position changes originated in conjunction with agency merit promotion programs when specifically authorized for retention in the EPF or work folder.

k. Performance-related material that may be maintained in the work folder to assist the supervisor/manager in accurately assessing employee performance. Such material may include transcripts of employment and training history, documentation of special licenses, certificates, or authorizations necessary in the performance of the employee's duties, employee locator information, information regarding specific employee problems, and other such records that agencies determine to be appropriate for retention in the work folder.

l. Standard Form 7B cards.

Note.—To the extent that performance records covered by this system are maintained in either an EPF, supervisor/manager work folder, or an agency's automated or microform record system, they are considered covered under this system of records.

This notice does not cover these records (or copies thereof) when they become part of a grievance file or a 5 CFR Part 432, 752, or 754 file (documents maintained in these files are covered by the OPM/GOVT–3 system of records, while grievance records are covered under an agency-specific system), or when they become part of an appeal or discrimination complaint file as such documents are considered to be part of either the system of appeal records under the control of the Merit Systems Protection Board or discrimination complaints files under the control of the Equal Employment Opportunity Commission.

Where an agency retains copies of records from this system in another system of records, not covered by this or another OPM, MSPB, or EEOC government-wide system notice, the agency is solely responsible for responding to any Privacy Act issues raised concerning those documents.

The Office has adopted a position that when supervisors/managers retain personal "supervisory" notes, i.e., information on employees over which the agency exercises no control and does not require or specifically describe in its performance appraisal system, which remain solely for the personal use of the author and are not provided to any other person, and which are retained or discarded at the author's sole discretion, such notes are not subject to the Privacy Act and are, therefore, not considered part of this system. Should an agency choose to adopt a position that such notes are subject to the Act, that agency is solely responsible for dealing with Privacy Act matters, including the requisite system notice, concerning them.

Authority for maintenance of the system:

Sections 1104, 3321, 4305, and 5405 of title 5, U.S.C. Code, and Executive Order 12107.

PURPOSE:

These records are maintained to ensure that all appropriate records relating to an employee's performance are retained and are available: (1) To agency officials having a need for the information; (2) to employees; (3) to support actions based on the records; (4) for use by the Office of Personnel Management in connection with its personnel management evaluation role in the Executive Branch; and (5) to identify individuals for personnel research. Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and other functions as promulgated in 5 U.S.C. 1205, 1206, and 1209 or for such other functions as may be authorized by law.

b. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal Affirmative Action programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

c. To disclose information to the Federal Labor Relations Authority (including its General Counsel) when

requested in connection with the investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator's awards where a question of material fact is raised and matters before the Federal Service Impasses Panel.

d. To consider and select employees for incentive awards, quality step increases, merit pay or other pay bonuses, and other honors and to publicize those granted. This may include disclosure to public and private organizations, including news media, which grant or publicize employee awards or honors.

e. To disclose information to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 USC Chapter 71 when relevant and necessary to their duties of exclusive representation.

f. To disclose to an agency in the executive, legislative, or judicial branch, or to the District of Columbia Government in response to its request, or at the initiation of the agency maintaining the records, information in connection with: the hiring or retention of an employee the issuance of a security clearance; the conducting of a security or suitability investigation of an individual; the classifying of jobs; the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency; or the lawful statutory, administrative, or investigative purposes of the agency to the extent that the information is relevant and necessary to the decision on the matter.

g. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

h. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

i. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

j. By the National Archives and Records Service (General Service Administration) in records management inspection conducted under authority of 44 U.S.C. 2904 and 2906.

k. By the Office of Personnel Management or employing agency to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

l. To disclose pertinent information to the apppropriate Federal (including offices of Inspectors General), State, or local government agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the agency maintaining the record becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

m. To disclose information to any member of an agency's Performance Review Board or other board or panel (e.g., one convened to select or review nominees for awards of merit pay increases), when the member is not an official of the employing agency; information would then be used for the purposes of approving or recommending performance awards, nominating for Meritorious and Distinguished Executive ranks, and removal, reduction-in-grade, and other personnel actions based on performance.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, envelopes, and on magnetic tapes, disks, microfilm, or microfiche.

RETRIEVABILITY:

Records are retrieved by the name and Social Security Number of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in file folders or envelopes, on magnetic tape, disks, or microforms and are stored in lockable desks, metal filing cabinets or in a secured room with access limited to those whose official duties require access. Additional safeguarding procedures include the use of sign-out sheets and restrictions on the number of employees able to access automated records through use of access codes and logs.

RETENTION AND DISPOSAL:

a. Summary performance appraisals (and related records as the agency prescribes) pertaining to SES appointees are retained for five years and on other employees for three years, except as shown in b. below, and are disposed of by shredding, burning, erasure of disks or in accordance with agency procedures regarding destruction of personnel records, including giving them to the data subject.

b. Appraisals of unacceptable performance and related documents, pursuant to 5 U.S.C. 4303(d), are destroyed after the employee completes one year of acceptable performance from the date of the proposed removal or reduction in grade notice. (Destruction to be no later than 30 days after the year is up).

c. When a career appointee in the Senior Executive Service accepts a Presidential appointment pursuant to 5 U.S.C. 3392(c), the employee's performance folder remains active so long as the employee remains employed under that Presidential appointment and elects to have certain provisions of title 5 relating to the Service apply.

d. When an incumbent of the Senior Executive Service transfers to another position in the Service, either with the same or a different agency, all performance documents five years old or less are transferred in the performance folder or envelope along with the individual's Official Personnel Folder.

e. Some performance-related records (e.g., documents maintained to assist rating officials in appraising performance or recommending remedial actions or to show that the employee is currently licensed or certified) may be destroyed after one year.

f. Where any of these documents are needed in connection with administrative or negotiated grievance procedures, or quasi-judicial or judicial proceedings, they may be retained as needed beyond the retention schedules identified above.

g. Generally, agencies retain records on former employees for no longer than one year after the employee leaves.

Note

Where an agency retains an automated or microform version of any of the above documents, retention of such records longer than shown is permitted (except for those records subject to 5 U.S.C. 4303(d)) is for agency use for historical or statistical analysis, but only so long as the record is not used in a determination directly affecting the individual about whom the record pertains (after the manual record has been or should have been destroyed).

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Director for Work Force Information, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact their servicing personnel office, supervisor/manager, Performance Review Board office, or other agency-designated office maintaining their performance-related records where they are or were employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Social Security Number.

c. Position occupied and unit where employed.

RECORDS ACCESS PROCEDURES:

Individuals wishing access to their records should contact the appropriate office indicated in the Notification procedure section where they are or were employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Social Security Number.

c. Position occupied and unit where employed.

Individuals requesting access to records must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment to their records should contact the appropriate office indicated in the Notification procedure section where they are or were employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Social Security Number.

c. Position occupied and unit where employed.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment or records (5 CFR 297.201 and 297.208).

RECORDS SOURCE CATEGORIES:

Records in this system are obtained from:

a. Supervisors/Managers.

b. Performance Review Boards.

c. Executive Resource Boards.

d. Other individuals or agency officials.

e. Other agency records.

f. The individual about whom the records pertain.

[FR Doc. 82-1534 Filed 1-21-82; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences; Information on Imports During First 10 Months of 1981

AGENCY: Office of the United States Trade Representative.

This notice is for information only and has no legal effect. It is provided in order to inform the public of certain import statistics covering the period of January through October 1981. These statistics are relevant to the "competitive need" limits set forth in section 504(c) of the Trade Act of 1974 (19 U.S.C. 2464(c)), pertaining to the Generalized System of Preferences (GSP). Those limits provide, in effect, that any GSP eligible beneficiary country that exported to the United States during the most recent calendar year a quantity of any one GSP eligible article in excess of (1) a specified dollar limit adjusted annually to reflect changes in the U.S. Gross National Product, or (2) 50 percent of total U.S. imports of the article, is to be removed from GSP eligibility for such product not later than 90 days after the close of that calendar year. Based on preliminary data and subject to revision, the aforementioned dollar limit is expected to be approximately $48 million for calendar year 1981.

Section 1111 of the Trade Agreements Act of 1979 amends section 504(c)(1)(B) of the Trade Act of 1974 so that the President may disregard the 50 percent "competivive need" limit with respecf to any eligible article if the value of total imports of the article during the most recent calendar year did not exceed $1 million, adjusted annually to reflect changes in the U.S. Gross National Product. This "de minimis" level is expected to be slightly over one million dollars for calenday year 1981.

An Executive Order will be issued to be effective March 31, 1982, making the adjustments that are required by section 504(c) of the Trade Act, on the basis of official data covering all of calendar year 1981. It should be emphasized that the information set forth below covers only the first 10 months of 1981. While this is not complete information, it is being published now in order to provide the maximum possible advance indication as to adjustment that may be made to meet requirements of section 504(c) of the Trade Act.

List I below shows countries which, on the basis of 10 month statistics, have exceeded competitive need limitations.

List II below shows countries which supplied 47 percent or more of total U.S. imports of specified GSP eligible articles, based on data from January–October 1981.

List III below shows countries which exceeded 50 percent of total U.S. imports of specified GSP eligible articles but where total trade was less than $1.09 million during January–October.

The column headed "TSUS" in the lists below sets forth item mumbers of the Tariff Schedules of the United States (19 U.S.C. 1202), representing categories of imported articles.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

BILLING CODE 3190-01-M

LIST I

GSP eligible articles for which a beneficiary country supplied--

a) 50 percent or more of U.S. imports in January-October 1981, and the total value of U.S. imports during this period exceeded $1.17 million, or

b) imports valued at $49 million or more during that period.

TSUS Item No.	Country	Percent	Value
107.48	Brazil	65	$51,254,006
107.80	Argentina	75	3,522,648
112.21	Peru	57	3,116,320 Est.
113.01	Thailand	58	1,571,491
114.04	Thailand	82	3,312,397
114.06	Republic of Korea	59	1,169,240
121.35	India	58	3,275,174
121.55	India	65	3,526,595
130.37	Argentina	61	1,132,584
135.90	Mexico	97	26,625,424
136.00	Dominican Republic	85	4,873,940
136.30	Mexico	74	6,578,554
136.80	Mexico	78	1,874,629
137.71	Mexico	91	2,753,098
137.79	Mexico	99	1,912,897
138.05	Mexico	68	10,892,035
138.35	Costa Rica	80	1,368,447
140.11	Chile	71	2,179,407
140.14	Thailand	78	4,536,634
140.21	Mexico	80	6,284,675
141.77	Mexico	59	14,236,677
146.22	Turkey	75	3,631,706
146.44	Philippines	83	3,205,757
147.98	Haiti	69	1,105,434
148.12	Mexico	89	3,130,159
148.25	Mexico	96	3,280,734 Est.
148.30	Mexico	65	5,088,913
148.72	Chile	90	2,017,477
149.50	Mexico	75	1,185,658
155.20	Argentina	10	178,281,494
	Brazil	14	245,392,704
	Colombia	4	79,587,921
	Dominican Republic	17	301,773,303
	Guatemala	4	81,505,865
	Panama	3	54,091,727
	Philippines	7	121,199,516
	Thailand	3	58,459,786
155.35	Barbados	72	3,390,781

LIST I--continued

TSUS Item No.	Country	Percent	Value
168.98	Mexico	52	$11,344,302
182.90	Panama	57	676,932
192.21	Colombia	80	58,785,469
192.85	Mexico	75	2,790,868
200.91	Honduras	67	3,434,692
202.62	Mexico	99	21,943,250
206.47	Taiwan	71	2,390,661
206.60	Mexico	69	22,388,191
206.98	Taiwan	56	30,993,467
220.20	Portugal	85	1,780,024
220.25	Portugal	77	1,848,027
220.48	Portugal	67	3,659,267
222.10	Hong Kong	64	8,499,695
240.19	Taiwan	81	1,066,339
240.21	Philippines	67	3,104,200
245.30	Brazil	75	3,481,743
256.60	Republic of Korea	56	11,134,657
256.87	Mexico	88	63,955,284
305.28	Thailand	90	1,252,108
315.80	Thailand	96	1,567,231
319.01	India	99	1,722,154
319.03	India	98	1,893,191
319.05	India	99	1,348,836
360.35	India	85	1,344,409
365.84	Philippines	57	2,928,262
386.09	Taiwan	55	10,115,630
389.61	Taiwan	46	49,780,405
407.09	Argentina	59	3,199,056
407.15	Argentina	70	2,058,329
413.20	Mexico	59	1,160,532
413.24	Republic of Korea	50	3,138,116
417.22	Mexico	99	2,702,548
418.80	Argentina	97	18,789,183
425.84	Netherlands Antilles	70	2,337,927
428.30	Brazil	82	5,604,848
428.86	Brazil	55	12,137,397
429.34	Brazil	50	2,045,165
437.60	Argentina	87	2,954,242
437.64	Brazil	61	10,696,247
473.52	Mexico	99	7,607,241
532.22	Republic of Korea	72	5,613,229
534.94	Taiwan	39	52,055,250
535.31	Mexico	51	6,418,821
603.40	Chile	85	6,629,356

LIST I--continued

TSUS Item No.	Country	Percent	Value
612.06	Chile	35	$182,477,927
	Peru	10	55,913,777
	Zambia	13	70,334,767
618.02	Ghana	21	100,318,747
618.15	Venezuela	85	43,676,846
632.02	Bolivia	77	4,472,094
642.09	Peru	52	1,641,081
642.16	Republic of Korea	58	40,380,264
646.32	Republic of Korea	58	998,188
648.97	Taiwan	52	67,817,450
650.89	Taiwan	50	650,888
651.21	Taiwan	63	3,633,047
651.33	Hong Kong	59	3,599,750
651.37	Taiwan	50	5,408,891
651.49	Taiwan	58	1,113,969
651.53	Taiwan	57	1,565,067
652.60	Taiwan	51	2,384,520
653.85	Taiwan	87	3,171,559
653.93	Taiwan	58	2,336,057
653.94	Republic of Korea	55	26,885,835
653.99	Taiwan	52	1,056,487
654.12	Taiwan	90	4,400,367
657.24	Taiwan	68	3,696,916
661.06	Hong Kong	46	175,785,332
	Taiwan	24	90,754,140
662.35	Mexico	53	2,789,543
676.52	Hong Kong	15	164,985,065
	Mexico	7	80,322,865
678.50	Republic of Korea	5	55,766,533
	Taiwan	7	80,919,473
682.35	Mexico	53	42,032,469
682.60	Mexico	18	83,419,517
683.80	Hong Kong	79	4,211,839
684.10	Taiwan	55	742,783
684.15	Singapore	98	19,517,139
684.50	Hong Kong	52	85,570,410
684.70	Taiwan	19	82,179,332
685.24	Hong Kong	25	125,171,756
	Singapore	10	51,829,274
685.29	Singapore	19	75,525,904
695.90	Mexico	17	160,468,107
686.30	Taiwan	61	10,839,740
687.30	Malaysia	50	13,023,033
688.10	Taiwan	83	45,138,611
688.12	Mexico	83	107,902,051

LIST I--continued

TSUS Item No.	Country	Percent	Value
688.15	Mexico	52	$84,197,237
690.15	Romania	88	12,649,233
692.32	Mexico	9	129,635,537
696.35	Taiwan	56	3,849,009
702.32	Mexico	76	2,196,206
702.47	Mexico	78	3,067,300
703.55	Portugal	50	730,288
706.27	Taiwan	55	9,258,493
706.40	Hong Kong	53	807,805
709.15	Israel	71	4,360,302
709.40	Hong Kong	56	3,094,939
713.15	Mexico	75	5,845,301
725.32	Taiwan	50	2,285,811
727.06	Mexico	62	30,696,623
727.12	Philippines	65	19,768,668
727.23	Taiwan	56	1,880,908
727.35	Taiwan	18	53,498,097
727.55	Taiwan	26	49,130,068
734.10	Taiwan	83	5,874,365
734.15	Taiwan	57	16,523,372
734.20	Hong Kong	26	110,008,137
	Taiwan	31	131,608,496
734.25	Hong Kong	55	1,633,126
734.51	Taiwan	79	2,902,407
734.56	Haiti	69	26,497,415
734.70	Republic of Korea	50	6,266,335
734.86	Taiwan	53	7,579,697
734.87	Taiwan	62	4,668,378
734.90	Taiwan	81	11,111,581
735.12	Taiwan	54	1,360,144
735.20	Taiwan	45	51,073,255
737.07	Hong Kong	54	14,123,388
737.15	Hong Kong	60	47,767,229
737.50	Hong Kong	68	1,241,974
737.60	Hong Kong	51	2,079,495
737.95	Hong Kong	42	107,264,854
740.30	Hong Kong	59	1,055,181
740.34	Hong Kong	85	3,623,605
741.25	Hong Kong	64	1,219,377
750.25	Hong Kong	61	3,225,452
750.35	Taiwan	66	791,989
750.50	Republic of Korea	62	965,964
751.05	Taiwan	74	27,476,385
771.45	Taiwan	58	1,086,189

LIST I--continued

TSUS Item No.	Country	Percent	Value
772.03	Hong Kong	66	$860,649
772.35	Taiwan	85	31,852,532
772.51	Republic of Korea	6	70,420,422
774.45	Hong Kong	62	16,904,417
790.03	Taiwan	51	4,661,773
790.39	Taiwan	83	26,720,034
790.62	Taiwan	72	979,968
790.70	Republic of Korea	85	29,939,035
792.50	Philippines	65	4,405,039
792.60	Hong Kong	82	5,822,279
792.75	Hong Kong	79	1,379,935
	TOTAL		5,519,457,696

LIST II

GSP eligible articles for which a beneficiary country supplied--

a) 47 percent or more, but less than 50 percent, of U.S. imports in January-October 1981 and the total value of U.S. imports during this period exceeded $1.17 million, or

b) imports valued at $45 million or more, but less than $48.9 million, during that period.

TSUS Item No.	Country	Percent	Value
121.62	India	48	$12,021,662
137.88	Colombia	49.5	1,547,665
155.20	Honduras	2	46,317,395
	Swaziland	2	47,254,754
245.20	Brazil	49.9	15,730,414
315.25	Mexico	49.3	2,611,174
385.45	Bangladesh	49.3	607,237
407.16	Argentina	49.1	18,393,998
445.42	Taiwan	47	8,684,994
520.39	Brazil	47	34,935,915
522.21	Mexico	48	30,933,230
544.51	Hong Kong	47	17,324,404
545.53	Mexico	49.5	8,011,505
652.84	Mexico	49.6	15,359,945
654.13	Hong Kong	49.3	3,613,499
660.48	Mexico	24	47,075,194
676.20	Taiwan	17	46,154,072
682.60	Hong Kong	10	47,874,957
683.15	Mexico	48	24,952,634
684.70	Republic of Korea	11	47,685,358
687.42	Taiwan	47	2,362,039
696.10	Taiwan	43	48,141,372
700.54	Hong Kong	48	3,142,665
711.38	Mexico	47	2,614,338
722.50	Hong Kong	47	1,750,071
725.52	Hong Kong	49.3	709,058
732.52	Taiwan	47	594,589
734.34	Hong Kong	47	583,924
734.54	Taiwan	48	17,858,149
737.25	Republic of Korea	47	2,340,129
737.30	Republic of Korea	47	27,986,436
741.15	Taiwan	47	1,482,863
745.58	Hong Kong	48	1,009,749
748.55	Taiwan	48	5,860,473
755.25	Hong Kong	48	9,677,959
772.95	Hong Kong	48	8,522,371
	TOTAL		611,726,191

LIST III

GSP eligible articles for which a beneficiary country supplied 47 percent or more of U.S. imports in January-October 1981 and the total value of U.S. imports during this period did not exceed $1.17 million--

TSUS Item No.	Country	Percent	Country Value	Total value of item
107.45	Haiti	49	$262,411	$529,643
121.52	India	89	257,697	288,247
130.32	Brazil	70	716,100	1,013,003
130.40	Guatemala	75	11,440	15,236
135.51	Mexico	96	659,159	683,390
135.80	Nicaragua	99	265,797	266,104
136.95	Guatemala	80	39,050	48,709
137.02	Dominican Republic	96	843,512	870,737
137.40	Mexico	80	544,855	674,307
137.75	Costa Rica	94	998,752	1,053,922
140.35	Turkey	66	215,361	321,438
141.35	Turkey	64	197,280	307,601
145.53	Turkey	84	492,926	582,431
146.42	Ecuador	91	929,280	1,010,685
147.85	Brazil	74	269,535	363,518
148.19	Nicaragua	61	14,388	23,436
148.35	Guatemala	83	92,223	110,010
148.77	Republic of Korea	49	4,950	9,973
152.00	Ecuador	100	300	300
152.43	Dominican Republic	92	230,915	250,480
154.40	Taiwan	64	264,002	408,132
154.43	Taiwan	49	3,964	8,090
161.53	India	84	9,852	11,708
161.69	Mexico	85	55,970	65,820
161.96	Yugoslavia	85	48,338	56,310
168.13	Trinidad	99	607,086	607,487
168.36	Peru	78	936	1,188
168.37	Peru	100	5,869	5,869
168.39	Argentina	100	24,050	24,050
168.42	Yugoslavia	60	23,038	38,184
168.54	Yugoslavia	58	81,562	140,469
168.59	Yugoslavia	47	48,500	102,370
169.39	Brazil	74	629,085	842,748
169.46	Mexico	66	719,281	1,089,619
170.13	Honduras	85	288,455 Est.	336,022 Est.
176.15	Ecuador	99	475,260	477,504
177.12	Portugal	98	54,825	55,737
177.69	Mexico	56	92,089	163,698
182.10	Mexico	61	1,010	1,650
184.65	Taiwan	59	139,636	236,596
206.45	Haiti	100	14,352	14,352
220.10	Portugal	97	634,211	649,800

LIST III--continued

TSUS Item No.	Country	Percent	Country Value	Total value of item
220.15	Portugal	89	$162,304	$180,884
220.35	Portugal	100	31,003	31,003
220.37	Portugal	100	14,374	14,374
220.41	Portugal	100	17,280	17,280
222.36	Taiwan	47	82,103	173,582
240.10	Brazil	93	118,471	126,706
240.12	Brazil	92	64,596	69,929
245.10	Romania	68	61,269	88,832
245.45	Costa Rica	80	43,678	54,472
304.40	Thailand	81	14,138	17,454
304.44	Brazil	96	66,342	69,100
304.58	Kenya	53	354	667
305.20	Thailand	55	242,441	439,108
305.30	Bangladesh	65	155,216	235,294
306.52	Bolivia	100	52,001	52,001
306.71	Turkey	56	215,563	383,141
306.72	Argentina	100	444,596	444,596
308.30	Brazil	93	65,873	70,575
315.30	Portugal	59	74,168	123,812
315.85	Thailand	86	57,680	66,806
315.90	Thailand	97	109,434	112,225
316.50	Taiwan	100	1,214	1,214
319.07	India	84	151,164	178,087
335.50	India	87	338,354	386,515
339.10	Mexico	47	170,638	362,751
347.30	India	79	488,885	618,165
347.72	India	54	565	1,036
356.25	Israel	74	776,025	1,043,547
360.36	Bangladesh	99	82,987	83,362
360.77	Portugal	53	3,380	6,298
364.18	Portugal	50	109,855	218,945
370.17	Portugal	48	91,258	188,445
402.12	Brazil	71	826,967	1,150,026
406.20	Israel	91	361,301	396,181
406.96	Republic of Korea	75	821,071	1,090,359
410.60	Venezuela	100	316	316
412.76	Israel	72	321,065	444,338
412.80	Mexico	61	480,486	778,662
413.36	Romania	93	75,431	81,016
417.38	Mexico	48	17,315	35,656
417.54	Bolivia	91	205,566	225,476
418.24	India	95	342,516	358,923
419.00	Peru	100	180,085	180,085
419.54	Mexico	52	139,260	265,863
420.02	Israel	83	63,481	76,322
420.24	Israel	64	200,122	308,708

LIST III--continued

TSUS Item No.	Country	Percent	Country Value	Total value of item
421.90	Hong Kong	68	$41,771	$61,278
422.20	Mexico	57	26,474	45,812
422.74	Mexico	99	244,800	245,215
422.76	Mexico	86	903,213	1,045,133
425.00	Taiwan	98	70,950	71,757
425.02	Thailand	100	6,098	6,098
425.12	Brazil	54	452,503	837,469
426.98	Chile	98	54,003	54,591
427.25	Mexico	86	484,023	560,826
428.58	Brazil	95	555,500	580,269
437.13	India	67	20,733	30,818
437.16	India	100	384,904	384,904
437.50	Hong Kong	65	4,516	6,944
446.10	Malaysia	92	782,662	848,656
450.10	Honduras	57	25,679	44,383
455.16	Brazil	64	6,717	10,433
455.46	Brazil	83	203,070	242,578
461.15	Bermuda	58	67,035	114,951
473.32	Brazil	82	66,262	79,877
473.36	Cyprus	100	40,150	40,150
473.38	Cyprus	57	92,113	160,826
473.48	Cyprus	100	7,536	7,536
473.56	Mexico	93	697,966	743,215
473.82	Republic of Korea	96	530,877	548,997
474.02	Hong Kong	56	2,210	3,902
490.30	Taiwan	96	13,730	14,275
494.04	Mexico	90	33,056	36,589
511.31	Mexico	91	857,790	939,139
511.51	Mexico	100	1,725	1,725
513.51	Peru	49	325,468	662,701
514.54	Mexico	62	102,247	162,950
514.57	Portugal	100	265	265
516.71	India	84	662,973	787,094
516.73	India	100	21,290	21,290
516.74	India	80	186,899	232,316
516.76	India	47	315,679	659,015
516.94	India	77	288,489	372,592
518.41	Mexico	84	321,623	382,768
533.11	Taiwan	52	202,119	383,680
533.15	Taiwan	56	414,217	730,116
534.74	Taiwan	67	14,749	21,724
545.37	Taiwan	87	14,999	17,156
545.65	Mexico	71	781,106	1,087,374
545.85	Taiwan	77	722,507	927,119
546.23	Taiwan	59	24,469	40,793
547.41	Hong Kong	48	43,097	89,648

LIST III--continued

TSUS Item No.	Country	Percent	Country Value	Total value of item
605.05	Mexico	100	$577	$577
610.71	Israel	100	43,853	43,853
612.02	Chile	91	363,606	399,006
612.15	Mexico	66	264,150	397,188
612.30	Yugoslavia	90	165,721	183,294
612.50	Taiwan	59	14,523	24,496
622.20	Bolivia	48	36,731	75,708
622.40	Brazil	92	135,700	146,451
624.02	Peru	85	278,076	324,499
624.42	Mexico	91	131,611	143,141
624.54	Taiwan	100	25,552	25,552
626.42	Mexico	55	304,377	550,272
628.15	Taiwan	59	10,440	17,602
628.50	Peru	52	60,043	114,642
632.60	Bolivia	83	423,189	505,488
642.45	Mexico	47	198,458	416,501
644.08	Taiwan	100	3,589	3,589
646.04	Taiwan	77	4,827	6,260
646.82	Taiwan	47	69,944	146,039
646.86	Hong Kong	51	148,116	287,430
646.88	Taiwan	88	2,401	2,719
646.98	Mexico	96	897,339	930,715
648.57	Taiwan	54	125,151	230,305
648.80	Republic of Korea	49	97,507	196,318
649.75	Pakistan	50	24,796	49,204
650.47	Taiwan	81	204,578	250,273
650.79	Taiwan	84	75,000	88,852
650.83	Hong Kong	100	3,721	3,721
650.87	Hong Kong	83	54,675	65,414
651.01	India	58	15,400	26,401
651.15	Taiwan	57	121,288	209,149
651.30	Hong Kong	47	67,095	140,849
651.45	Taiwan	71	34,614	48,743
653.47	Taiwan	63	633,551	996,705
653.70	Hong Kong	72	29,283	40,365
660.80	Taiwan	50	442,685	872,934
672.10	Hong Kong	79	735,912	929,682
676.23	Hong Kong	59	94,493	158,869
694.63	Mexico	64	110,052	171,657
702.08	Mexico	68	27,747	40,305
702.20	Republic of Korea	56	194,647	346,770
702.28	Taiwan	77	271,456	351,525
702.35	Indonesia	72	161,305	222,231
702.45	Brazil	77	44,751	57,746
703.40	Taiwan	80	24,150	29,857
703.65	Mexico	92	528,417	571,040

LIST III--continued

TSUS Item No.	Country	Percent	Country Value	Total value of item
703.80	Mexico	53	$163,400	$306,173
704.95	Taiwan	64	225,005	349,790
705.30	Philippines	48	43,862	91,209
705.82	Brazil	47	421,841	885,849
706.25	Taiwan	51	143,112	279,160
706.31	Republic of Korea	47	140,791	298,406
706.50	Hong Kong	62	147,802	235,510
708.41	Hong Kong	56	2,520	4,456
709.07	Hong Kong	61	54,333	87,867
710.67	India	85	35,249	41,175
711.30	Taiwan	63	252,687	398,625
711.45	Taiwan	53	24,766	46,041
711.77	Mexico	47	394,248	836,548
713.07	Israel	94	33,742	35,659
713.17	Taiwan	75	731,817	972,608
713.19	Mexico	82	215,448	260,566
725.20	India	59	45,229	75,394
728.20	Portugal	63	37,035	58,083
730.29	Philippines	71	510,484	718,061
730.91	Mexico	52	595,260	1,136,305
731.10	Taiwan	66	615,313	923,113
734.30	Hong Kong	70	298,762	423,961
734.40	Taiwan	60	653,619	1,088,927
734.60	Taiwan	62	58,844	94,087
734.72	Taiwan	47	424,855	889,939
734.85	Republic of Korea	76	732,299	953,591
735.11	Taiwan	81	174,661	213,265
741.20	Hong Kong	100	145,584	145,584
748.12	Haiti	90	76,298	84,433
748.15	Taiwan	62	288,529	463,604
750.05	Hong Kong	63	198,079	314,259
751.15	Taiwan	95	24,396	25,563
751.20	Taiwan	74	390,065	526,330
755.30	Malta	75	348,082	464,010
756.23	India	57	46,662	81,307
756.30	Turkey	51	37,088	71,801
756.40	Hong Kong	50	10,196	20,387
760.34	Mexico	66	14,089	21,053
760.38	Mexico	73	145,700	197,813
771.05	Portugal	72	11,316	15,615
773.20	Hong Kong	57	2,694	4,674
790.07	Hong Kong	82	7,663	9,251
791.17	Haiti	97	44,444	45,698
791.20	Mexico	54	52,321	96,282
791.80	Republic of Korea	67	675,569	1,005,066
	TOTAL		48,130,611	65,500,692

[FR Doc. 82-1530 Filed 1-21-82; 8:45 am]

BILLING CODE 3190-01-C

SECURITIES AND EXCHANGE COMMISSION

Senior Executive Service Performance Review Board; List of Members; Schedule of Bonus Awards

AGENCY: Securities and Exchange Commission.

ACTION: Listing of personnel service as members of this agency's senior executive service performance review board and announcement of schedule for awarding bonuses.

SUMMARY: Pub. L. 95–454 dated October 13, 1978 (Civil Service Reform Act of 1978) requries that Federal agencies publish notification of the appointment of individuals who serve as members of that agency's Performance Review Board (PRB). This notice announces the PRB membership and the schedule for awarding SES bonuses in the Commission. The Securities and Exchange Commission has established a Performance Review Board consisting of:

1. George Kundahl, Executive Director, PRB Chairman
2. Edward Greene, General Counsel
3. Daniel Goelzer, Executive Assistant to the Chairman
4. Donald Malawsky, Administrator, New York Regional Office (alternate)
5. Lee B. Spencer, Director, Division of Corporation Finance (alternate)

The Securities and Exchange Commission plans to award bonuses to Senior Executive Service members on or about January 29, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Craig Kellermann, Office of the Executive Director, Securities and Exchange Commission, 500 North Capitol Street, Washingon, D.C. 20549 (202–272–2706).

George A. Fitzsimmons,

Secretary.

January 18, 1982.

[FR Doc. 82–1608 Filed 1–21–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12162; 812–5000]

Bancomer, S.A.; Application

January 15, 1982.

In the matter of Bancomer, S.A., c/o Jonathan M. Weld, Esq., Shearman & Sterling, Citicorp Center, 153 East 53rd Street, New York, New York 10022 (812–5000).

Notice is hereby given that Bancomer, S.A. ("Applicant"), filed an application on October 23, 1981, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it offers a broad range of banking and financial services to the general public in its capacity as a "full-service bank." Applicant further states that it was first incorporated as a private banking institution in 1932 under the name Banco de Comercio, S.A. Applicant's principal office is at Bancomer Center, Av. Universidad 1200 Mexico City, Mexico 12 D.F. Applicant states that it assumed its present name in November, 1977 following a corporate restructuring involving the merger of 37 subsidiaries, consisting of 35 commercial banks, a mortgage bank and a financial company. Applicant represents that it is the largest private bank in Mexico and the largest commercial bank in Latin America.

Applicant states that it has 672 branches, wholly-owned subsidiaries and other equity investments in Mexico and that it has agencies in Los Angeles and New York. Applicant further states it has branches in London and in the Cayman Islands and representative offices in Madrid, Sao Paulo, Buenos Aires and Tokyo. In addition, Applicant states it is in the process of acquiring a majority of the outstanding shares of the Grossmont Bank of San Diego County, California. According to the application, Applicant had outstanding as of July 31, 1981, 525,000,000 shares and that Mr. Manuel Espinosa Yglesias, Chairman of the Board and President of Applicant, and members of his family held approximately 34% of the outstanding shares of Applicant as of the above date.

Applicant represents that it is subject to extensive supervision and regulation by Mexican banking authorities. Specifically, Applicant states it is subject to regulation by the Mexican Ministry of Finance and Public Credit, the Mexican National Banking and Insurance Commission and the Mexican National Securities Commission. Applicant states that there are legal requirements prescribing minimum paid-in capital, characteristics of the Board of Directors, rules relating to shareholders' meetings and net worth and liabilities ratios. In addition, Applicant states there are specific regulations governing (i) the manner in which funds may be invested; (ii) the issuance and characteristics of bank securities; and (iii) interest rates. Applicant further represents that because it maintains agencies in the United States, it is subject to United States regulation pursuant to the Bank Holding Company Act of 1956 and the International Banking Act of 1978. Applicant states that its pending acquisition of Grossmont Bank will require prior approval of the Federal Reserve Board and will subject it to the full scope of the Bank Holding Company Act of 1956.

Applicant proposes to issue and sell commercial paper, ("Notes") in bearer form, denominated in United States dollars and issued in minimum denominations of $100,000. They will rank *pari passu* among themselves and equally with all other unsecured indebtedness, including deposits (except in the case of the bankruptcy of Bancomer, savings deposits in an amount not to exceed 15,000 Mexican pesos per depositor) and superior to the rights of shareholders of Applicant. Applicant states that the Notes will not be payable on demand or include any provision for extension, renewal or automatic "roll-over" at the option of either the holders thereof or Bancomer. Applicant states that it believes that the aggregate principal amount of Notes to be outstanding at any time will not exceed $250 million.

Applicant states that the characteristics of the Notes, the manner of offering, and the use of the proceeds of the Notes to finance current transactions will qualify the Notes for the exemption from registration under the Securities Act of 1933 ("1933 Act") provided by Section 3(a)(3) of the 1933 Act. Applicant will not issue and sell the Notes until it has received an opinion of its legal counsel in the United States to the effect that the proposed offering is entitled to the exemption provided by Section 3(a)(3) of the 1933 Act. Applicant does not request review or approval of such opinion letter and the Commission expresses no opinion as to the availability of any such exemption. Applicant further represents that the presently proposed issue of Notes, and any future issue of debt securities in the United States will have received, prior to issuance, one of the three highest investment grades from at least one nationally recognized statistical rating organization and that its United States counsel will have certified that such rating has been received.

Applicant undertakes to ensure that the Notes will be sold through one or more commercial paper dealers to traditional types of commercial paper purchasers, and will not be advertised or otherwise offered to the general public. Applicant also undertakes to

ensure that each dealer in the Notes will provide each offeree of the Notes, prior to any sale of Notes to such offeree, with a memorandum that describes the business of Applicant and that contains the most recent publicly available fiscal year-end balance sheet and income statement of Applicant, which have been audited in such manner as is customarily done for Applicant by its auditors. Such memorandum will be updated periodically to reflect material changes in Applicant's business and financial condition. The memorandum will be at least as comprehensive as those customarily used in offering commercial paper in the United States. Such memorandum will describe the material differences between the accounting principles applied by Applicant in the preparation of the financial statements and generally accepted accouting principles applicable to similar financial institutions in the United States. Applicant consents to any order granting the relief requested pursuant to Section 6(c) of the Act being expressly conditioned upon Applicant's compliance with all undertakings regarding disclosure documents.

The application states that Applicant will appoint a bank in the United States as its authorized agent to issue the Notes from time to time and to accept any service of process in any action based on the Notes and instituted in any state or federal court by the holder of any Note. Applicant consents to the jurisdiction of any state or federal court in the City and State of New York in respect of any such action. Such appointment of an authorized agent to accept service of process and consent to jurisdiction will be irrevocable until all amounts due and to become due with respect to the Notes have been paid by Applicant. Applicant will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the Notes or otherwise. Applicant states that the authorized agent will not be a trustee for the holders of the Notes or otherwise obligated to act for them. Applicant similarly represents that it will consent to jurisdiction and will appoint an agent for service of process in suits arising from any future offer of debt securities that it may make in the United States.

Applicant states that in the future it might offer other securities for sale in the United States and that any such offering will be made in compliance with all applicable federal securities statutes and regulations promulgated thereunder. In connection with any such offering, Applicant undertakes to insure that any offeree will be provided, prior to any sale, with disclosure documents at least as comprehensive in their description of Applicant and its business and financial condition as the dealer's memorandum referred to above. In no event will such disclosure be less comprehensive than is customary for United States offerings of similar debt securities. Applicant consents to having any order granting the relief requested under Section 6(c) of the Act expressly conditioned upon its compliance with its undertakings regarding disclosure documents.

Section 3(a)(3) of the Act defines investment company to mean "any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis."

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act, or any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states it is applying to the Commission because of uncertainty whether or not it would be defined as an "investment company" under the Act.

Applicant contends that approval of its application is both necessary and appropriate in the public interest. According to Applicant, if it were deemed an "investment company" and its application denied, it would be precluded from publicly offering securities in the United States and, thus, denied access to a major financing source. Applicant asserts that the public interest would be served since the ability of it to offer securities in the United States would contribute to the stability of the international financial market.

Applicant further asserts that the requested exemption would be consistent with the protection of investors. Applicant states that the extensive regulation by the Government of Mexico affords substantial protection to investors. In addition, Applicant is regulated, to a lesser extent, by the California Superintendent of Banks, the New York State Banking Department and the Federal Reserve Board. In addition, Applicant states that certain anti-fraud provisions of the federal securities laws will apply to the offering of any debt security by it. Finally, Applicant contends that it is different from the type of institution that Congress intended the Act to regulate.

Notice is further given that any interested person may, not later than February 9, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such reuqest, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–1602 Filed 1–21–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12159; 812–4903]

Security Benefit Life Insurance Co., et al.; Application

January 12, 1982.

In the matter of Security Benefit Life Insurance Company, SBL Variable Annuity Account IV, and SBL Planning, Inc., 700 Harrison Avenue, Topeka, Kansas 66636 (812–4903).

Notice is hereby given that Security Benefit Life Insurance Company ("SBL"), SBL Variable Annuity Account IV

("Account IV"), and SBL Planning, Inc. ("Planning") (together, "Applicants"), filed an application on June 22, 1981, and amendments thereto on September 14, 1981, October 21, 1981, December 30, 1981 and January 11, 1982, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants, to the extent requested, from Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 26(a)(2), 27(c)(1), 27(c)(2), and 27(d) of the Act, and Rule 22c-1 thereunder and, pursuant to Section 11 of the Act, approving certain offers of exchange. SBL is a mutual life insurance company organized under the laws of Kansas. Account IV, a segregated account of SBL which is registered under the Act as a unit investment trust, was established to act as a funding entity for individual and group variable annuity contracts ("Contracts") to be issued by SBL in connection with certain tax qualified pension, profit sharing and other retirement plans. SBL is the depositor of Account IV, and Planning, the distributor and principal underwriter of the Contracts. All interested persons are referred to the application, as amended, on file with the Commission, for a statement of the representations made therein which are summarized below.

The Contracts include single stipulated payment Contracts with annuity payments commencing immediately and flexible installment stipulated payment Contracts with annuity payments commencing at a future date. At the time purchase payments are received, SBL deducts any applicable premium tax and, in the case of single payment immediate Contracts, an administrative fee of $100. The net amount will be allocated to one or more of three series of Account IV, each of which will be invested in series of SBL Fund, Inc., a registered open-end diversified investment company of the series type ("Fund") or to the purchase of a guaranteed annuity, as designated by the contractowner. There is a minimum allocation to any one series within Account IV of $25. A contractowner may change such allocation instructions; however, an allocation fee of $10 will be imposed for each change made in excess of one per contract year. A contractowner will also be permitted to transfer his account within Account IV to other series within Account IV or to SBL's guaranteed account. Not more than one transfer will be permitted in a 30-day period (except that a contractowner will have the right to make a final transfer within 30 days prior to the contract maturity date). The first transfer in each contract year and the final transfer are made without charge. Each additional transfer is assessed a $10 transfer fee. SBL may suspend the right of transfer. The Contracts will be offered without the imposition of a sales charge deduction at the time of sale. However, the Contracts contain a provision which imposes a contingent deferred sales charge in the event there is a partial or complete redemption during the first ten years of the Contract. The contingent deferred sales charge is imposed as follows: The adjusted withdrawal amount is determined as the requested withdrawal amount less any free withdrawal right; the unassessed payments is determined as the sum of stipulated payments which have not had a contingent deferred sales charge assessed against them; if (a) the adjusted withdrawal amount is equal to or greater than the unassessed payments, the contingent deferred sales charge is equal to the unassessed payments times the applicable following tabular withdrawal percentage on the withdrawal date; if (b) the adjusted withdrawal amount is less than the unassessed payments, the contingent deferred sales charge is equal to the adjusted withdrawal amount times the applicable following tabular withdrawal percentage on the withdrawal date.

Contract year of withdrawal	Tabular withdrawal percent
1	9
2	9
3	8
4	7
5	6
6	5
7	4
8	3
9	2
10	1
11 and after	0

The contractowner receives one free withdrawal per contract year for each individual Contract and each participant's individual account after the first contract year, which is equal to 8% of the account value at the date of the first withdrawal in that year. Any portion of the free withdrawal right which is not applied to the first withdrawal in the contract year is forfeited. The contingent deferred sales charge will not be deducted (a) from the value of the Contract paid as a death benefit, (b) against annuity payments under annuity options that have life contingency payments, (c) against early annuitization, or (d) against transfers of account values to one or more series within Account IV or to the guaranteed account. Applicants state that the contingent deferred sales charge will not exceed 9% of payments made by the contractowners.

Single payment deferred and installment payment Contracts are subject to an annual administrative fee of $30 per contract year which is deducted from the contract value at the end of each year and a pro rata portion of that fee at the time of full withdrawal. Single payment immediate Contracts provide for a $100 administrative fee as noted above. Under the Contracts, SBL has assumed the risks that actual expenses incurred by SBL in connection with the Contracts may exceed the expense charges provided for in the Contracts and that persons receiving annuity payments may live longer than expected. SBL also assumes the risk that the death benefit paid in the event a contractowner dies prior to the maturity of his Contract will exceed the account value. In exchange for assuming these risk, the Contracts provide for a deduction of an actuarial risk fee assessed daily and deducted at calendar year end. The actuarial risk fee is allocated to the contract-owner's variable series and guaranteed account based upon their respective values. The fee is deducted from the contractowner's account upon (a) annuitization of variable account funds, (b) each total withdrawal of a variable account, (c) each calendar year end and (d) transfer from one variable account to another variable account or the guaranteed account. The actuarial risk fee is as follows:

Where asset value is		Actuarial Risk Fee (percent)	Risk components death		
At least	But less than		Mortality (percent)	Benefits (percent)	Expense (percent)
	$20,000	1.10	.6	.1	.4
$20,000	$50,000	.95	.6	.1	.25
$50,000 or more		.85	.6	.1	15

Applicants state that to the extent SBL realizes a gain from actuarial risk fees, such gain will inure to the benefit of SBL's general account and will be used by SBL to pay its general costs and expenses. Applicants further state that sales expenses actually incurred by SBL may not be covered by the contingent deferred sales charges. If not so covered, then such sales expenses will be paid from the general funds of SBL. Applicants acknowledge, therefore, that the actuarial risk fee might be used indirectly for sales and distribution expenses.

The annual administrative fee, transfer fee and allocation fee will be

deducted from that portion of the contractowner's account value sequentially, from account value represented by Series C first, next from Series B, next from Series A, and finally from the value allocated to the guaranteed annuity. SBL also deducts premium taxes where applicable.

Approval Under Section 11

Section 11(a) of the Act makes it unlawful for any registered open-end investment company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of (a) shall be applicable to any security of a registered open-end company for a security of a registered unit investment trust and to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

As described above, the purchaser of a Contract will have the right to exchange that part of the value of his Contract which represents an interest in shares of one series of the Fund for an interest in shares of either of the other Fund series at net asset value or for SBL's obligation to provide the contractowner with guaranteed annuity benefits. A transfer fee of $10 may be imposed and the actuarial risk fee that has accrued daily against the contractowner's account will be charged at the time a transfer is made. In order to avoid any question, Applicants request that the Commisson issue a Section 11 order—to the extent one is deemed necessary—in order that a contractowner may exchange all or part of his contract value allocated to shares of one or more series of the Fund for shares of one or more other series of the Fund or a guaranteed annuity without any deductions being made, other than the transfer and actuarial risk fees described above, if applicable.

Relief for Contingent Deferred Sales Charge

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities. On the grounds stated in the application, Applicants request an exemption from Section 2(a)(35) to permit the transactions described therein.

Rule 22c–1, promulgated under Section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing a redeemable security from selling, redeeming or repurchasing any such security except at a price based on the current net asset value of such security. In order to avoid any question regarding complete compliance with the act, Applicants request an exemption from Section 22(c) and Rule 22c–1, to the extent deemed necessary or appropriate to permit the transactions described in the application.

Section 27(c)(2) of the Act provides, in substance, that the issuer of a periodic payment plan certificate and a depositor or underwriter for such an issuer are prohibited from selling any such certificates unless the proceeds of all payments, other than the sales load, on the Certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) and are held by such trustee or custodian under an agreement containing, in substance, the trust indenture provisions required by Sections 26(a)(2) and 26(a)(3) of the Act. Section 26(a)(2)(C) of the Act provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust (or to any affiliated person or agent of such depositor or principal underwriter) shall be allowed the trustee or custodian as an expense except for payment of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services of a character normally performed by the trustee or custodian. Applicants request an exemption from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the Act, to the extent necessary, in order to permit the offer and sale of the Contracts subject to the contingent deferred sales charge as described above.

Section 27(c)(1) of the Act, in pertinent part, makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor or underwriter of such company, to sell any such certificate unless it is a redeemable security. On the grounds stated in the application, Applicants request an exemption from Section 27(c)(1), to the extent deemed necessary, to permit the imposition of contingent deferred sales charge.

Section 2(a)(32) of the Act, in substance, defines a redeemable security as a security under the terms of which the holder is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(d) of the Act, in substance, requires that the holder of a periodic payment plan certificate be able to surrender his certificate within a specified time and receive the value of his account and the return of sales charges in excess of a certain percentage. Applicants request an exemption from Sections 2(a)(32) and 27(d), to the extent deemed necessary, to permit imposition of the contingent deferred sales charge.

Relief for Performance of Custodial Functions

Section 27(c)(2) prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a bank as trustee or custodian having the qualifications prescribed in Section 26(a)(1) and held under an indenture or agreement containing, in substance, the provisions required by Sections 26(a)(2) and (3) for a unit investment trust. Section 26(a)(2) requires that the trustee or custodian segregate and hold in trust all securities and cash of the unit investment trust and places certain restrictions on charges which may be made against the trust income and corpus. Applicants request an exemption from the provisions of Sections 26(a) and 27(c)(2) of the Act in order that SBL may act as custodian of the assets of Account IV performing the functions normally performed by a custodian; that the share certificates of the Fund may be issued under an open account arrangement without the use of stock certificates; and that the property and assets of Account IV while segregated do not have to be held in trust.

Relief for Payment of Contract Fees and Charges

Sections 26(a) and 27(c)(2), as here pertinent, provide in substance that a registered unit investment trust and any depositor of or underwriter for such trust are prohibited from selling periodic payment plan certificates unless the proceeds of all payments, other than amounts deducted for sales load, are deposited with a qualified bank as trustee or custodian. Section 26(a)(2)(D)

provides that the custodian have possession of all securities and other property in which the funds of the trust are invested subject only to the charges and collections allowed under clauses (A), (B) and (C) of Section 26(a)(2) until distribution thereof to the security holders of the trust. As pertinent here, Section 26(a)(2)(C), provides, in substance, that no payment to the depositor or principal underwriter of a unit investment trust shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amounts as the Commission may prescribe, as compensation of performing bookkeeping and other administrative services normally performed by the custodian.

SBL requests that the Commission enter an order exempting SBL from the provisions of Sections 26(a) and 27(c)(2) of the Act to the extent necessary to permit the deductions of (1) the annual administrative fee on installment contracts, (2) the $100 administrative fee on single payment contracts, (3) the fee for providing mortality, death benefit and expense risk undertakings, (4) the allocation and transfer fees, and (5) depending on the requirements of the particular state, either (a) to permit the deduction from purchase payments when made and payment of applicable annuity premium taxes to such state by SBL or (b) to permit the deduction of such taxes by SBL from the account value and the payment of such taxes to such state at the time when an annuity is effected. Applicants consent that the foregoing requested exemptions from Sections 26(a) and 27(c)(2) may be made subject to the following conditions; (1) that the deductions under the Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe and the Commission may reserve jurisdiction for such purpose; and (2) that the payment of sums and charges out of the assets of VAA IV shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that the applicants' consent to this condition shall not be determined to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets, other than the charges for administrative services, and the Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Relief for Annual Administrative Fee and Actuarial Risk Fee Deductions

As noted above, the annual administrative fee and actuarial risk fee may be deducted at the time of a complete withdrawal. Thus, the contractowner may be deemed not to have received his proportionate share of the net asset value of his account. In order to expedite the transactions contemplated in connection with Account IV, Applicants request that the Commission enter an order exempting Applicants, to the extent necessary, from Sections 2(a)(32), 22(c), 27(c)(1), and 27(d) and Rule 22c–1 to permit the charging of the annual administrative fee and actuarial risk fee upon complete withdrawal of a contract in the matter described.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of person, securities or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants contend that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Notice is Further given that any interested person may, no later than February 5, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issue, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued, as of course, following February 5, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-1603 Filed 1-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18414; File No. SR-BSE-81-14]

Self-Regulatory Organizations; Proposed Rule Change by Boston Stock Exchange, Inc.; Relating To Usuage Charge on ITS Trades

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 31, 1981, the Boston Stock Exchange filed with the Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

To impose a usage charge of $.005 per share on all trades executed through ITS in market centers other than Boston, effective for the period January 4, 1982 through December 31, 1982.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places set forth in Item IV below. The self-regulatory organization has prepared summaries set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Basis for, the Proposed Rule Change

(a) On December 23, 1981, the Board of Governors of the Exchange voted to impose a usage charge of $.005 per share on all trades executed through ITS in market centers other than Boston. This

charge was necessitated by the costs associated with the ITS System which includes lines, hardware and financing of ITS transactions. The charge, while temporary in nature would assist the Exchange to cover a portion of the expenses associated with the system.

(b) The basis under the Act for the proposed rule change is Section 6(b)(4) permitting the rules of an Exchange to provide for equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its service.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed charge is not expected to create a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change received from Members, Participants, or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing Rule change will become effective January 4, 1982 pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such Rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed change that are filed with the Commission, and all written communications relating to the proposed change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 12, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 12, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-1604 Filed 1-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18426; File No. SR-MCC-81-9]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corp. Relating to 1981 Rebate Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 18, 1981, the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is the memorandum to MCC Participants dated November 2, 1981.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the memorandum to MCC Participants dated November 2, 1981, is to reaffirm MCC's policy adopted in 1980 to rebate to participants revenues in excess of those needed to maintain the financial integrity of the Corporation. The rebate program, however, will be affected this year by an unusual and significant event which served to highlight potential risk to the clearing corporations and ultimately their participants, even when their systems perform as designed.

The MCC Board of Directors thoroughly reviewed the circumstances which caused exposure and a sizable financial loss to the Corporation and determined that MCC will cover this specific loss by a charge to the 1981 operating results. The alternative was to cover the loss out of the Participants Fund pursuant to MCC Rules. The decision by the Board, although consistent with that of other clearing corporations in the recent past, should not be considered a precedent and does not eliminate the possibility in similar situations that participants would be assessed amounts pro rata to their individual contribution to the Participants' Fund at the time of the loss such that the loss would be fully covered.

The impact of this action will be to reduce the amount of the rebate that would have been made to the Participants this year. It will also require some future revenues to be used to rebuild retained earnings to prudent levels.

The stated policy is consistent with Section 17A of the Act in that it is concerned with the safeguarding of funds related to securities transactions and is necessary for the protection of investors and persons facilitating transactions by and acting on behalf of investors.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Clearing Corporation does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 12, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 18, 1982.

George A. Fitzsimmons

Secretary.

[FR Doc. 82-1605 Filed 1-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18425; File No. SR-OCC-82-1]

Self-Regulatory Organizations; Proposed Rule Change By Options Clearing Corp. Relating To Increase In Minimum Required Contribution to Debt Securities Clearing Fund

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 7, 1982, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Proposed Rule Change

The proposed rule change would increase the required minimum contribution to OCC's Debt Securities Clearing Fund from $10,000 to $100,000 (or such greater amount as OCC's Board of Directors may from time to time prescribe by resolution applicable to all Debt Securities Clearing Members). The proposed rule change would also make various drafting changes of a non-substantive nature in Article VIII, Section 2 of OCC's By-Laws and in Rule 1001.

II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified below. OCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to increase the required minimum contribution to OCC's Debt Securities Clearing Fund to a level that more closely reflects anticipated dollar premium levels for debt securities options.

Excluding initial contributions, which are fixed by the Board of Directors, a Clearing Member's required contribution to the Debt Securities Clearing Fund is determined by a formula prescribed in OCC Rule 1001. Under that formula, a Debt Securities Clearing Member is required to contribute the greater of $10,000 or the Clearing Member's proportionate share of a fund equal to 7% of the average daily value of the open interest in debt securities options over the three preceding months.

As a practical matter, open interest in debt securities options is expected to be relatively low during the first few months of trading. Accordingly, once the initial contributions prescribed by OCC's Board of Directors expire, it seems likely that the required contributions of many Debt Securities Clearing Members will drop to the minimum, or to levels not greatly in excess of that amount.

OCC believes that the present minimum contribution of $10,000 is seriously inadequate in the context of debt securities options. One of the functions of a Clearing Member's Clearing Fund deposit is to provide the funds necessary to pay the premiums on uncleared opening purchase transactions if the Clearing Member is suspended. In the case of stock options, where the average premium per contract is approximately $400, a $10,000 minimum deposit would cover the average premiums for 25 uncleared contracts. However, because of the substantially higher value of a single unit of trading for debt securities options, OCC estimates that the average premium per contract for the latter will be in the neighborhood of $4,500. If that estimate is even approximately accurate, a minimum Debt Securities Clearing Fund contribution of $10,000 would at best cover the average premiums for two or three uncleared contracts.

The proposed rule change is intended to increase the required minimum contribution to the Debt Securities Clearing Fund to a level that bears roughly the same relationship to anticipated average premiums for debt securities options as the minimum contribution to the Stock Clearing Fund bears to average premiums for stock options. In addition, because of the possibility that OCC's assumptions may prove to be inaccurate in the light of actual experience with debt securities options trading, the proposed rule change would authorize OCC's Board of Directors to increase the required minimum contribution to a level above $100,000 if it considered such action to be necessary.

OCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Securities Exchange Act of 1934 (the "Act") because it promotes the protection of investors and the public interest by strengthening OCC's system of safeguards in the context of debt securities options.

(B) Burden on Competition

OCC does not believe that the proposed rule change will have a significant adverse effect on competition. Any increase in Clearing Fund requirements imposes an additional burden on Clearing Members, insofar as it requires the commitment of liquid assets that might otherwise be employed elsewhere. However, unless and until an assessment is made against the Clearing Fund, the committed assets can still be counted as capital for the purposes of applicable net capital rules. Accordingly, increased Clearing Fund requirements do not impair a Clearing Member's capital position, which tends

to be the most critical determinant of its ability to compete.

Moreover, unlike requirements imposed by other self-regulatory organizations, requirements imposed by clearing agencies do not affect a firm's ability to engage in the securities business generally. They bear only on a firm's ability to engage in a narrow segment of that business—the clearing of transactions. Here, the proposed rule change applies even more narrowly. It applies only to those firms that may wish to clear transactions in debt securities options.

As a practical matter, OCC's Board of Directors has already received and approved applications by 48 Clearing Members to clear debt securities options transactions, notwithstanding the $100,000 initial contribution requirement to the Debt Securities Clearing Fund. This constitutes almost one-third of OCC's entire membership. OCC knows of no Clearing Member that would be unable to meet a $100,000 contribution requirement.

To the extent that the proposed rule change may be considered to impose an incidental burden on competition, OCC believes that the burden is necessary and appropriate in the interest of maintaining the integrity of OCC's system of safeguards, and for the protection of investors and the public interest.

(C) Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were not and are not intended to be solicited by OCC with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 12, 1982.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 18, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-1606 Filed 1-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18381; File No. SR-SCCP-81-5]

Filing of Proposed Rule Change by Stock Clearing Corporation of Philadelphia

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 3, 1981, the Stock Clearing Corporation of Philadelphia ("SCCP") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would permit SCCP participants to use irrevocable letters of credit, issued by banks or trust companies approved by SCCP, for non-cash contributions to the participants' fund and for mark to market obligations. The proposal is intended to afford SCCP participants greater flexibility on meeting these obligations. The proposal includes standards by which banks and trust companies will be approved by SCCP, policies to be used in limiting the use of letters of credit, and a sample letter of credit. In its filing SCCP states that the proposal is based on Section 17A(b)(3)(F) of Securities Exchange Act of 1934, which provides that a clearing agency shall not be registered unless, among other things, its rules promote the prompt and accurate settlement of securities transactions and asure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. Because the proposed rule change will regulate the use of letters of credit by SCCP participants in satisfying their obligations to SCCP, the proposal will affect SCCP participants and banks and trust companies that wish to offer letters of credit to SCCP participants.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission by Fegruary 12, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-SCCP-81-5.

Copies of the submission, all subsequent amendments, all written statement with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-1607 Filed 1-21-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2021]

Commonwealth of The Northern Mariana Islands; Declaration of Disaster Loan Area

The Island of Saipan in the Commonwealth of the Northern Mariana Islands constitutes a disaster area as a result of wind and rain damage caused by Tropical Storm Hazen which occurred on November 15, 1981. Eligible persons, firms and organizations may file applications for physical damage until March 18, 1982 and for economic injury until the close of business on October 15, 1982 at the address below: SBA Branch Office, Pacific Daily News Bldg., Room 508, Agana, Guam 96910 or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere, 16 percent.
Homeowners without credit available elsewhere, 8 percent.
Businesses with credit available elsewhere, 16 percent.
Businesses without credit available elsewhere, 8 percent.
Businesses (EIDL) without credit available elsewhere, 8 percent.

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

Information on recent statutory changes (Pub. L. 97–35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Date: January 15, 1982

Michael Cardenas,

Administrator.

[FR Doc. 82–1674 Filed 1–21–81; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1981 Rev., Supp. No. 14]

Surety Companies Acceptable on Federal Bonds; Allendale Mutual Insurance Co.

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $17,134,000 has been established for the company.

Name of Company: Allendale Mutual Insurance Company
Business Address: Post Office Box 7500, Johnston, Rhode Island 02919
State of Incorporation: Rhode Island

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitation, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1981 Revision, at page 33962 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: January 18, 1982.

W. E. Douglas,

Commissioner.

[FR Doc. 82–1617 Filed 1–21–82; 8:45 am]

BILLING CODE 4810–35–M

Office of the Secretary

National Productivity Advisory Committee; Meeting

January 19, 1982.

The Subcommittee on Capital Investment of the National Productivity Advisory Committee will hold a breakfast meeting at 9:00 a.m. on February 5 in the Conference Room on the 48th floor of the W. R. Grace Building, 43 West 42nd Street, New York, New York.

The purpose of the meeting will be to discuss ways of increasing productivity growth through capital investment.

Roger B. Porter,

Executive Secretary, National Productivity Advisory Committee.

[FR Doc. 82–1672 Filed 1–21–82; 8:45 am]

BILLING CODE 4910–62–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 15
Friday, January 22, 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

BOARD FOR INTERNATIONAL BROADCASTING

TIME AND DATE: 9:30 a.m., January 29, 1982.

PLACE: Board for International Broadcasting, Conference Room, Suite 430, 1030 15th Street NW., Washington, D.C. 20005.

STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1) 22 CFR 1302.4 (c) and (h) of the Board's rules (42 FR 9388, Feb. 16, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Arthur D. Levin, Budget and Administrative Officer, Board for International Broadcasting, Suite 430, 1030 15th Street NW., Washington, D.C. 20005, 202-254-8040.

[S-103-82 Filed 1-20-82; 3:58 pm]

BILLING CODE 6155-02-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, January 26, 1982.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: User Fees.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-96-82 Filed 1-20-82; 11:17 am]

BILLING CODE 6351-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

Emergency Closed Briefing, Tuesday, January 12, 1982.

The Federal Communications Commission held an Emergency Closed Briefing on Tuesday, January 12, 1982, following the Closed Meeting for instructions after oral argument in Room 856, 1919 M Street, N.W., Washington, D.C. on the following matter:

Department of Justice Briefing on *U.S. v. Western Electric.*

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this matter.

This briefing is closed to the public because it concerns premature disclosure and adjudication—participation in civil action matters (See 47 CFR 0.603 (i) and (j)).

Additional information concerning this briefing may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: January 13, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-99-82 Filed 1-20-82; 2:54 pm]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION

Hold Special Open Commission Meeting, Thursday, January 21, 1982

The Federal Communications Commission will hold a Special Open Meeting on the subjects listed below on Thursday, January 21, 1982, 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., Subject

Common Carrier—1—*Title:* Petition of Heritage Village Church and Missionary Fellowship, Inc. for emergency relief with respect to PBX interconnection to telephone service of Southern Bell Telephone and Telegraph Co. *Summary:* A subscriber's single tract of land straddles the boundary between two telephone companies' service areas. The subscriber chose to locate its FCC-registered PBX in the portion of the tract served by one company, and the South Carolina Public Service Commission ordered that service be provided by the other company. Before the Commission is a Petition for Declaratory Ruling which claims that the existing interconnection is proper, and which requests that the South Carolina P.S.C. order be preempted.

Common Carrier—2—*Title:* Prescription of Revised Depreciation Rates (AT&T). *Summary:* The Commission will consider revised whole-life and remaining-life depreciation rates for all or portions of the plant for long lines department and the operating companies of the American Telephone & Telegraph Co.

Common Carrier—3—*Title:* Prescription of Revised Depreciation Rates (GTE). *Summary:* The Commission will consider revised remaining-life depreciation rates for all or portions of the plant of the companies of the GTE Service Corporation for which the Commission prescribes depreciation rates.

Common Carrier—4—*Title:* Prescription of Revised Depreciation Rates (Continental Telephone Co. of Virginia). *Summary:* The Commission will consider revised remaining-life depreciation rates for all of the plant of the Continental Telephone Co. of Virginia.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this matter.

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: January 15, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-100-82 Filed 1-20-82; 2:55 pm]

BILLING CODE 6712-01-M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 2975, Wednesday, January 20, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Monday, January 25, 1982.

PLACE: 1700 G Street, N.W., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The Bank Board meeting previously scheduled for Monday, January 25, 1982 has been cancelled.

[No. 7, January 20, 1982.]

[S–101–82 Filed 1–20–82; 3:48 pm]

BILLING CODE 6720–01–M

6

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, January 27, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests than an item be moved to the discussion agenda.

1. Proposed extension of the Demand Deposit Ownership Survey (FR 2591).
2. Proposed revisions to the Board's "Rules Regarding Delegation of Authority" in the areas of consumer protection regulation and compliance examination.

Discussion Agenda:

3. Proposed guidelines with respect to potential competition.
4. Proposed money market mutual fund survey.
5. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Date: January 19, 1982.

James McAfee,

Assistant Secretary of the Board.

[S–97–82 Filed 1–20–82; 10:50 am]

BILLING CODE 6210–01–M

7

PAROLE COMMISSION

TIME AND DATE: 9:30 a.m., Friday, January 29, 1982.

PLACE: Room 420–F; One North Park Building; 5550 Friendship Boulevard; Bethesda, Maryland 20015.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 10 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

[S 102–82 Filed 1–20–82; 3:48 pm]

BILLING CODE 4410–01–M

federal register

Friday
January 22, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California:	
CA81-5119	May 15, 1981.
CA81-5132	July 7, 1981.
Pennsylvania:	
PA80-3055	Oct. 2, 1980.
PA81-3043	July 17, 1981.
PA81-3044	Aug. 7, 1981.
PA81-3090	Dec. 18, 1981.
Washington: WA81-5163	Dec. 4, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Vermont: VT81-3007 (VT82-3003)	Jan. 16, 1981.

Signed at Washington, D.C., this 15th day of January 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION NO. CA81-5119 - Mod. #3

(46 FR 27017 - May 15, 1981)
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Cruz, Santa Clara, Solano, Sonoma, Sutter, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers					
Group 1	$13.53	1.30	2.00	1.55	.10
Group 1(a)	13.755	1.30	2.00	1.55	.10
Group 1(b)	14.03	1.30	2.00	1.55	.10
Group 1(c)	13.58	1.30	2.00	1.55	.10
Group 1(d)	13.78	1.30	2.00	1.55	.10
Group 1(e)	14.08	1.30	2.00	1.55	.10
Group 1(f)	14.115	1.30	2.00	1.55	.10
Group 1(g)	13.73	1.30	2.00	1.55	.10
Group 2	13.38	1.30	2.00	1.55	.10
Group 3	13.28	1.30	2.00	1.55	.10
GUNNITE					
Group 1	13.99	1.30	2.00	1.55	.10
Group 2	13.40	1.30	2.00	1.55	.10
Group 3	13.28	1.30	2.00	1.55	.10

DECISION NO. CA81-5132 - Mod. #4

(46 FR 35860 - July 7, 1981)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Cruz, Santa Clara, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
ELECTRICIANS:					
AREA 6					
Electricians	$22.01	1.50	3%+3.00		.10
Cable Splicers	24.01	1.50	3%+3.00		.10
LABORERS					
POWER EQUIPMENT OPERATORS					
DREDGING					

DECISION NO. CA81-5132 - MOD. #4 CONT'D

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 13.53	1.30	2.00	1.55	.10
Group 1(a)	13.755	1.30	2.00	1.55	.10
Group 1(b)	14.03	1.30	2.00	1.55	.10
Group 1(c)	13.58	1.30	2.00	1.55	.10
Group 1(d)	13.78	1.30	2.00	1.55	.10
Group 1(e)	14.08	1.30	2.00	1.55	.10
Group 1(f)	14.115	1.30	2.00	1.55	.10
Group 1(g)	13.73	1.30	2.00	1.55	.10
Group 2	13.38	1.30	2.00	1.55	.10
Group 3	13.28	1.30	2.00	1.55	.10
(GUNNITE)					
Group 1	13.99	1.30	2.00	1.55	.10
Group 2	13.40	1.30	2.00	1.55	.10
Group 3	13.28	1.30	2.00	1.55	.10
(TUNNEL and SHAFT WORK)					
Group 1	16.24	1.30	2.00	1.55	.10
Group 2	15.84	1.30	2.00	1.55	.10
Group 3	15.60	1.30	2.00	1.55	.10
Group 4	15.45	1.30	2.00	1.55	.10
(WRECKING WORK)					
Group 1	13.53	1.30	2.00	1.55	.10
Group 2	13.38	1.30	2.00	1.55	.10
Group 3	13.28	1.30	2.00	1.55	.10
(HOUSEMOVING)					
Group 1	13.53	1.30	2.00	1.55	.10

DECISION NO. CA81-5132 - MOD. #4 CONT'D

POWER EQUIPMENT OPERATORS: DREDGING SCHEDULE I CLAMSHELL & DIPPER DREDGING (New Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1: Bargeman; Deckhand; Fireman; Oiler:					
Area 1	$13.15	1.70 *	3.50	2.12	.19
Area 2	14.32	1.70 *	3.50	2.12	.19
Area 3	14.67	1.70 *	3.50	2.12	.19
Area 4	15.01	1.70 *	3.50	2.12	.19
Group 2: Deck Engineers; Deck Mate:					
Area 1	15.27	1.70 *	3.50	2.12	.19
Area 2	16.54	1.70 *	3.50	2.12	.19
Area 3	16.89	1.70 *	3.50	2.12	.19
Area 4	17.26	1.70 *	3.50	2.12	.19
Group 3: Welder; Mechanic Welder; Watch Engineer:					
Area 1	15.85	1.70 *	3.50	2.12	.19
Area 2	17.11	1.70 *	3.50	2.12	.19
Area 3	17.47	1.70 *	3.50	2.12	.19
Area 4	17.83	1.70 *	3.50	2.12	.19
Group 4: Clamshell Operator (up to and including 7 cu. yds. M.R.C.)(Long Boom Pay):					
Area 1	16.83	1.70 *	3.50	2.12	.19
Area 2	18.10	1.70 *	3.50	2.12	.19
Area 3	18.45	1.70 *	3.50	2.12	.19
Area 4	18.81	1.70 *	3.50	2.12	.19

DECISION NO. CA81-5132 - MOD. #4 CONT'D

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (CONT'D)					
DREDGING -- SCHEDULE I (CONT'D)					
Group 4-A:					
Clamshell Operator (over cu. yds. M.R.C.) (Long Boom Pay):					
Area 1	$18.33	1.70*	3.50	2.12	.19
Area 2	19.62	1.70*	3.50	2.12	.19
Area 3	20.02	1.70*	3.50	2.12	.19
Area 4					
SCHEDULE II					
HYDRUALIC SUCTION DREDGING AND ALL OTHER CLAMSHELL AND DIPPER DREDGING					
Group A-1:					
Bargeman; Deckhand; Leveehand; Fireman; Oiler:					
Area 1	13.13	1.70*	3.50	2.12	.19
Area 2	14.30	1.70*	3.50	2.12	.19
Area 3	14.64	1.70*	3.50	2.12	.19
Area 4	14.99	1.70*	3.50	2.12	.19
Group A-2:					
Winchman (stern winch on Dredge); Deck Engineer:					
Area 1	14.40	1.70*	3.50	2.12	.19
Area 2	15.62	1.70*	3.50	2.12	.19
Area 3	15.99	1.70*	3.50	2.12	.19
Area 4	16.34	1.70*	3.50	2.12	.19
Group A-3:					
Watch Engineer; Welder; Welder Mechanic; Deckmate; Booster Pump Operator (Mud Cat):					
Area 1	15.24	1.70*	3.50	2.12	.19
Area 2	16.51	1.70*	3.50	2.12	.19
Area 3	16.88	1.70*	3.50	2.12	.19
Area 4	17.24	1.70*	3.50	2.12	.19

DECISION NO. CA81-5132 - MOD. #4 CONT'D

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (CONT'D)					
SCHEDULE II - (CONT'D)					
Group A-4:					
Leverman; Clamshell Operator:					
Area 1	$16.40	1.70 *	3.50	2.12	.19
Area 2	17.68	1.70 *	3.50	2.12	.19
Area 3	18.03	1.70 *	3.50	2.12	.19
Area 4	18.39	1.70 *	3.50	2.12	.19

AREA DEFINITIONS FOR DREGING, SCHEDULES I and II

*Employer contributes $.44 per hour to a Pensioned H&W Fund

Four Centers designated: City Halls of Oakland, San Francisco, Sacramento and Stockton, California

Area 1: Up to 20 road miles from said Centers

Area 2: More than 20 road miles to and including 30 road miles from said Centers

Area 3: Outside of 30 road miles from said Centers

Area 4: An area extending 25 road miles from shoreline of Lake Tahoe.

DECISION NO. PA80-3055
MOD. NO. 13
(45 FR 65902 - October 3, 1980)
Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Ironworkers:					
Rigger, Machinery Mover	$14.78	1.49	1.46		
Sheet Metal Workers					
Zone 1 (Commercial)	15.74	1.17	2.24		.07

DECISION NO. PA81-3043
MOD. NO. 4
(46 FR 37212 - July 17, 1981)
Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington & Westmoreland Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Carpenters					
Zone 2	$12.65	6½%	8%	10%	
Line Construction					
Zone 1					
Lineman	16.93	.60	3%		3/8%
Winch truck operator	11.85	.60	3%		3/8%
Groundman	10.15	.60	3%		3/8%
ADD:					
Lathers:					
Allegheny County in its entirety; Armstrong County Twps. of Red Bank, Wayne, Cowanshinock, Plumbcreck, Butler County; Twps. of Donegal, Summit, Clearfield, Penn, Jefferson, Winfield, Adams, Middlesex, Clinton, Buffalo; Washington County Twps. of Hanover, Robinson, Smith, Cecil, Mt. Pleasant, Chartiers, Peters, N. Strabane, Canton, Union Westmoreland County; Twps of Allegheny, Lower Burrell, Upper Burrell, Washington, Franklin, Bell, Salem, Loyalhanna & Hempfield	12.92	.90	1.45		.01

DECISION NO. PA81-3044
MOD. NO. 7
(46 FR 40477 - August 7, 1981)
Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford & Venango Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Carpenters & Soft Floor Layers					
Zone 1	$12.65	6½%	8%	10%	
Lathers					
Zone 3	12.92	.90	1.45		.01
Line Construction					
Zone 1					
Class 1	16.93	.60	3%		3/8%
Class 2	10.15	.60	3%		3/8%
Class 3	11.85	.60	3%		3/8%
Sheet Metal Workers					
Zone 2	13.51	1.17	2.17		.23

DECISION NO. PA81-3090
MOD. NO. 1
(46 FR 61813 - December 18, 1981)
Lycoming County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					

DECISION NO. WA81-5163 - Mod #3
(46 FR 59457 - December 4, 1981)
Statewide Washington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS:					
Area 1	$19.99	.81	1.49		.08
CARPENTERS:					
Area 2:					
Fringe Benefits (all classifications)		1.00	1.28		.06
ELECTRICIANS:					
Area 3:					
Electricians	18.70	.95	3%+2.30		.05
Cable Splicers	20.57	.95	3%+2.30		.05
Area 5:					
Electricians	20.80	1.25	3%+2.25		.13
Cable Splicers	21.60	1.25	3%+2.25		.13
Area 6:					
Electricians	19.50	1.25	3%+2.00	5%	.02
Cable Splicers	21.45	1.25	3%+2.00	5%	.02
INSULATION APPLICATORS	13.22	1.00	1.28		.06
PLUMBERS:					
Area 1	18.37	.99	2.18	2.30	.14
TRUCK DRIVERS (AREA 2)					
Group 1	16.41	1.24	1.54		.14
Group 2	16.46	1.24	1.54		.14
Group 3	16.51	1.24	1.54		.14
Group 4	16.62	1.24	1.54		.14
Group 5	16.68	1.24	1.54		.14
Group 6	16.72	1.24	1.54		.14
Group 7	16.73	1.24	1.54		.14
Group 8	16.79	1.24	1.54		.14
Group 9	16.84	1.24	1.54		.14
Group 10	16.86	1.24	1.54		.14
Group 11	16.89	1.24	1.54		.14
Group 12	16.99	1.24	1.54		.14
Group 13	17.01	1.24	1.54		.14
Group 14	17.05	1.24	1.54		.14
Group 15	17.17	1.24	1.54		.14
Group 16	17.21	1.24	1.54		.14
Group 17	17.33	1.24	1.54		.14
Group 18	17.38	1.24	1.54		.14
Group 19	17.54	1.24	1.54		.14
Group 20	17.70	1.24	1.54		.14
Group 21	17.86	1.24	1.54		.14

SUPERSEDEAS DECISION

STATE: VERMONT COUNTIES: STATEWIDE
DECISION NO.: VT82-3003 DATE: DATE OF PUBLICATION
Supersedes Decision No.: VT81-3007, dated January 16, 1981 in 46 FR 4265
DESCRIPTION OF WORK: Highway Construction Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Windham County	7.00				
Windsor County	6.73				
Remainder of Counties	7.30				
CEMENT MASONS:					
Windham County	6.58				
Windsor County	6.17				
Remainder of Counties	7.30				
ELECTRICIANS:					
Bennington County	8.25				
Chittenden County	8.80				
Franklin County	8.33				
Rutland County	5.50				
Windham County	7.16				
Remainder of Counties	7.58				
IRONWORKERS:					
Structural:					
Statewide	8.45				
Reinforcing:					
Bennington, Caledonia, Chittenden, Grand Isle & Washington Counties	6.46	.24			.05
Franklin County	6.65				
Windham County	7.21				
Remainder of Counties	6.75				
LABORERS:					
Addison County	5.11			a	
Caledonia County	5.04			a	
Franklin County	4.89			a	
Lamoille County	5.28			a	
Orange County	5.18			a	
Orleans County	4.78			a	
Washington County	5.16			a	
Windham & Windsor County	5.20			a	
Remainder of Counties	4.50			a	
BLASTERS:					
Statewide	7.25			a	
DRILLERS:					
Chittenden & Franklin Counties	6.00			a	
Orange & Washington Counties	5.33			a	
Rutland County	5.00			a	
Remainder of Counties	5.70			a	

DECISION NO. VT82-3003

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PIPELAYERS:					
Addison County	5.36			a	
Caledonia County	5.29			a	
Franklin County	5.14			a	
Lamoille County	5.53			a	
Orange County	5.43			a	
Orleans County	5.03			a	
Washington County	5.41			a	
Windham & Windsor County	5.45			a	
Remainder of Counties	4.75			a	
PAINTERS:					
Statewide	6.00				
TRUCK DRIVERS:					
Truck Drivers - 2 Axle:					
Franklin County	5.43				
Rutland County	5.27				
Remainder of Counties	5.35				
Truck Drivers - 3 Axle:					
Rutland County	5.80				
Windham County	6.00				
Remainder of Counties	5.50				
Earth Auger/Post Driver:					
All Counties	5.50				
POWER EQUIPMENT OPERATORS:					
Backhoe:					
Addison County	8.73			b	
Bennington County	9.42			b	
Caledonia & Essex Counties	8.65	.35	.50	b	.05
Rutland County	8.30				
Remainder of Counties	8.20	.35	.50	b	.05
Backend/Screedman					
Bennington County	7.93			b	
Caledonia County	8.20	.35	.50	b	.05
Chittenden, Essex, Franklin, Grand Isle, Lamoille Orange, Orleans & Windsor Counties	7.75	.35	.50	b	.05

DECISION NO. VT82-3003

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Broom:					
Addison & Caledonia Cos.	7.20	.35	.50	b	.05
Essex, Rutland & Windham Counties	5.50			b	
Orleans County	5.95			b	
Windsor County	6.89				
Bennington, Chittenden, Franklin, Lamoille, Orange & Washington Counties	6.35	.35	.50	b	.05
Bulldozer:					
Bennington County	8.30	.85	1.00	b	.05
Caledonia & Orange Cos.	8.20	.35	.50	b	.05
Washington County	8.83			b	
Windham County	8.60			b	
Windsor County	8.37				
Remainder of Counties	7.75	.35	.50	b	.05
Compactor:					
Addison & Windsor Counties	7.59			b	
Bennington County	8.70				
Essex, Franklin & Orleans Counties	7.75	.35	.50	b	.05
Orange County	7.20	.35	.50	b	.05
Rutland County	5.25				
Windham County	8.65	.55	.70	b	.05
Remainder of Counties	8.65				
POWER EQUIPMENT OPERATORS:					
Compressor:					
Bennington COunty	8.57				
Orange County	7.17	.35	.50	b	.05
Windsor County	7.20				
Remainder of Counties	7.95			b	.05
Crane:					
Addison, Caledonia, Lamoille & Washington Counties	9.05			b	.05
Franklin County	8.35	.45	.60	b	.05
Rutland County	7.51				
Remainder of Counties	8.20	.35	.50	b	.05

DECISION NO. VT82-3003

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Gradall:					
Caledonia, Lamoille & Orleans Counties	9.05			b	.05
Orange County	7.75	.35	.50	b	.05
Rutland County	7.00				
Washington County	8.57				
Windsor County	7.98				
Remainder of Counties	8.20	.35	.50	b	.05
Grader:					
Addison County	7.52			b	
Bennington County	9.52	.95	1.00	b	.05
Caledonia County	8.40			b	
Essex County	8.51			b	
Orange County	8.11			b	
Rutland County	7.44				
Windsor County	8.27				
Remainder of Counties	7.95	.35	.50	b	.05
Loader:					
Bennington County	9.52	.95	1.00	b	.05
Caledonia County	8.65	.55	.70	b	.05
Windsor County	7.76				
Remainder of County	7.75	.35	.50	b	.05
Mechanic:					
Bennington County	9.52	.95	1.00	b	.05
Caledonia & Orange Cos.	8.20	.55	.70	b	.05
Rutland County	7.53				
Windsor County	7.76		.50		
Remainder of Counties	7.75	.35		b	.05
Oilers:					
Bennington County	7.10				
Chittenden County	7.81				
Pavers:					
Bennington County	8.70				
Caledonia County	8.20	.55	.70	b	.05
Rutland County	5.80				
Windham County	8.55			b	
Windsor County	7.76				
Remainder of Counties	7.75	.35	.50	b	.05

[FR Doc. 82-1406 Filed 1-21-82; 8:45 am]
BILLING CODE 4510-27-C

DECICION NO. VT82-3003

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Rollers:					
Bennington County	9.82				
Caledonia & Orange Cos.	8.20	.55	.70	b	.05
Franklin & Windsor Cos.	7.76				
Rutland County	6.05				
Windham County	8.00				
Remainder of Counties	7.75	.35	.50	b	.05
Shovel:					
Bennington County	8.73				
Chittenden & Franklin Cos.	9.79	.95	1.00	b	.05
Essex, Grand Isle & Washington Counties	9.15	.85	1.00	b	.05
Chainsaw:					
Statewide	5.00				
Line Striper:					
Caledonia & Orange Cos.	8.50				
Remainder of Counties	7.50				
Backhoe/Loader Combination: (Farm Type):					
Statewide	7.00			b	
Specialized Earth/Rock Haulers:					
All Counties	6.50				

FOOTNOTE:

a. Two (2) paid holidays: Memorial Day & Independence Day providing the employee has been employed the schedule workday prior to the holiday and the schedule workday after the holiday.

b. Nine (9) paid holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day and Veteran's Day, provided the employee has been employed at least 7 days or more prior to the holiday and has worked the scheduled day before and after the holiday.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

federal register

Friday
January 22, 1982

Part III

Department of Health and Human Services

Food and Drug Administration

Ear, Nose, and Throat Devices; Proposed General Provisions and Classification of 67 Devices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 874

[Docket No. 78N-1549]

Ear, Nose, and Throat Devices; General Provisions and Classification of 67 Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing general rules applicable to the classification of all ear, nose, and throat devices. The Medical Device Amendments of 1976 require FDA to classify all medical devices intended for human use into three categories: class I, general controls; class II, performance standards; and class III, premarket approval. In the preamble, FDA describes the development of the proposed regulation classifying ear, nose, and throat devices. The preamble also describes the activities of the Ear, Nose, and Throat Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel (formerly the Ear, Nose, and Throat Device Classification Panel), and FDA advisory committee that makes recommendation to FDA concerning the classification of ear, nose, and throat devices.

DATES: Comments by March 23, 1982. FDA proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

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

FOR FURTHER INFORMATION CONTACT: Harry R. Sauberman, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7536.

SUPPLEMENTARY INFORMATION:

Device Classification System

The Medical Device Amendments of 1976 (Pub. L. 94-295, hereinafter called the amendments) establish a comprehensive system for the regulation of medical devices intended for human use. One provision of the amendments, section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) establishes three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories are as follows: class I, general controls; class II, performance standards; and class III, premarket approval.

Most devices are not classified under section 513 of the act until after FDA has (1) received a recommendation from a device panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. These steps must precede the classification of any device that was in commercial distribution before May 28, 1976 (the date of enactment of the amendments) and that was not previously regarded by FDA as a new drug under section 505 of the act (21 U.S.C. 355). A device that is first offered for commercial distribution after May 28, 1976, and is substantially equivalent to a device classified under this scheme, is also classified in the same class as the device to which it is substantially equivalent.

A device that FDA previously regarded as a new drug, or a newly offered device that is not substantially equivalent to a device that was in commercial distribution before the amendments, is classified by statute into class III. These two types of devices are classified into class III without any FDA rulemaking proceedings. The agency determines whether new devices are substantially equivalent to previously offered devices by means of the premarket notification procedure in section 510(k) of the act (21 U.S.C. 360(k)) and Part 807 of the regulations (21 CFR Part 807).

Related Regulations

In the **Federal Register** of July 28, 1978 (43 FR 32988), FDA issued final regulations describing the procedures for classifying devices intended for human use. These regulations, which were proposed in the **Federal Register** of September 13, 1977 (42 FR 46028), supplement the agency's regulations in Part 14 (21 CFR Part 14) governing the use of advisory committees. The agency also issued interim device classification procedures in a notice published in the **Federal Register** of May 19, 1975 (40 FR 21848).

Activities of Panel

Anticipating enactment of the amendments, FDA established several advisory committees to make preliminary recommendations on device classification. The Ear, Nose, and Throat Device Classification Panel (the Panel) was originally chartered on October 15, 1974, as the Panel on Review of Ear, Nose, and Throat Devices.

On August 9, 1976, the Panel and other preamendments device classification panels were rechartered to reflect their new responsibilities under the amendments.

Throughout the Panel's deliberations, interested persons were given an opportunity to present their views, data, and other information concerning the classification of ear, nose, and throat devices. The Panel also invited experts to testify and sought information on many devices from the published literature.

In November 1977, the Panel submitted to FDA a preliminary report of its recommendations. The report included a roster of current and former Panel members and consultants and listed all meeting dates. The agency placed a copy of the report in the Dockets Management Branch (HFA-305), Food and Drug Administration, and announced its availability to the public by notice published in the **Federal Register** of November 29, 1977 (42 FR 60792). Also available in the Dockets Management Branch are summary minutes from all Panel meetings, verbatim transcripts of meetings held after May 28, 1976 (the date of enactment of the amendments), and all references cited in individual ear, nose, and throat device proposed classification regulations.

On April 28, 1978, the agency terminated all of the device classification panels, and then reestablished them with new names and with a new structure. FDA published notices of these changes in the **Federal Register** of May 19, 1978 (43 FR 21666, 21667, and 21668) and May 26, 1978 (43 FR 22672 and 22673). The Ear, Nose, and Throat Device Classification Panel was terminated, and its functions are not conducted by the Ear, Nose, and Throat Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel.

Relationship Between the Device Names in the Device Registration and Listing Codes and the Device Names in Classification Regulations

Some manufacturers have become accustomed to identifying a device by its registration and listing name and three-letter code used for purposes of device listing under section 510 of the act (21 U.S.C. 360). However, FDA is still making changes in the names and identifications of generic types of devices in the classification regulations for all devices for which final regulations have not been published.

Because FDA has not used the present device registration and listing names in the proposed and final classification regulations, FDA has prepared an index of names of generic types of medical devices used in classification regulations to aid a manufacturer in matching its device with the proper classification regulation. The index shows the device registration and listing product code for each device reviewed by a classification panel and the corresponding name of the generic type of device and classification panel in which the device classification will be published in the Federal Register. The agency announced the availability of this index in the Federal Register of March 6, 1979 (44 FR 12269). If necessary, this index will be updated and the availability of the revised index will be reannounced in the Federal Register. FDA believes that, because this index is available, it is unnecessary to include or cross reference the present device registration and listing name and product code in the classification regulations. In the future, following publication of most of the device classification regulations, the agency will revise and reissue the device registration and listing product code, so the device names to be used for registration and listing correspond to the device names in the final device classification regulations.

List of Ear, Nose, and Throat Devices

In 1972, FDA surveyed device manufacturers to identify the devices for which classification regulations would be needed. After this survey, FDA developed a list of ear, nose, and throat devices. The Panel supplemented the list using its members' knowledge of ear, nose, and throat devices in use. Devices that were solely for experimental or investigational use or that were not generally available were not included.

FDA is proposing to establish a new Part 874 in Title 21 of the Code of Federal Regulations. Part 874 will consist of sections identifying, with a brief narrative description, each ear, nose, and throat device being classified and stating the classification of that device. A list of the ear, nose, and throat devices that FDA is proposing to classify appears elsewhere in this preamble.

Ear, Nose, and Throat Device Classification Regulations

FDA is proposing to classify 67 ear, nose, and throat devices. The agency is proposing to classify 10 ear, nose, and throat devices into class I (general controls), 47 ear, nose, and throat devices into class II (performance standards), and 10 ear, nose and throat devices into class III (premarket approval). FDA also is publishing the recommendations of the Panel regarding these devices, as required by section 513(c)(2) and (d)(1) of the act (21 U.S.C. 360c(c)(2) and (d)(1)).

Panel Recommendations

Each Panel recommendation concerning an ear, nose, and throat device includes the information described below.

1. *Identification.* Both the Panel recommendation and the proposed FDA classification include a brief narrative identification of the device. The identification statement is necessarily broad because it applies to a category or type of device rather than to a specific device. As explained in proposed § 874.1 (21 CFR 874.1), manufacturers who submit premarket notification submissions under section 510(k) of the act and Part 807 of the regulations cannot show merely that a newly offered device is accurately described by the section title and identification provisions of a classification regulation. Although a new device may be described accurately by the title and identification in a classification regulation, it is nevertheless in class III under section 513(f) of the act if it is not substantially equivalent to a preamendments device (or to a postamendments device that has already been reclassified from class III into class I or class II). It is not practical for FDA to publish an identification of each type of device that is so detailed as to anticipate every product feature that may be relevant in determining whether a new device is substantially equivalent to previous devices classified by the regulation. FDA believes that this problem was recognized in, and addressed by, the premarket notification procedures in section 510(k) of the act. Accordingly, any manufacturer who submits a premarket notification submission should state why the manufacturer believes that the device is substantially equivalent to other devices in commercial distribution, as required by § 807.87 (21 CFR 807.87), and whether the device is described in a classification regulation.

Some products have both medical and nonmedical uses. FDA will regulate a multipurpose product as a medical device if it is intended for a medical purpose, i.e., for "use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease," or "to affect the structure or any function of the body."; (Section 201(h) of the act (21 U.S.C. 321(h)).) FDA will determine the intended use of a product based upon the expressions of the person legally responsible for its labeling and by the circumstances surrounding its distribution. The most important factors the agency will consider in determining the intended use of a paticular product are the labeling, advertising, and other representations accompanying the product. Products that have medical uses only are clearly intended for medical purposes, and therefore, will be regulated as medical devices whether or not medical claims are made for them.

2. *Recommended classification.* Each Panel's recommendation describes whether the device is recommended for classification into class I (general controls), class II (performance standards), or class III (premarket approval).

For each device recommended for classification into class I, the Panel considered whether the device should be exempt from any requirements under certain sections of the act: Section 510 (21 U.S.C. 360, registration), section 519 (21 U.S.C. 360i, records and reports), and section 520(f) (21 U.S.C. 360j(f), good manufacturing practice requirements). The Panel recommended that all class I devices be exempt from the requirements of section 510(k) (21 U.S.C. 360(k)) premarket notification. FDA's policy concerning these exemption recommendations is discussed below in the section of this proposal concerning "Exemptions for Class I Devices."

A Panel recommendation that a device be classified into class II includes the Panel's recommended priority ("high," "medium," or "low") for establishing a performance standard for the device. Similarly, each Panel recommendation that a device be classified into class III includes the Panel's recommended priority ("high," "medium," or "low") for application of premarket approval requirements to that device. As explained below in the section of this notice concerning "Priorities for Class II and III Devices," FDA is not, however, proposing the establishment of FDA priorities at this time.

3. *Summary of reasons for recommendation.* The summary of reasons for the Panel's recommendtion explains why the Panel believes a particular device meets the statutory criteria for classification into Class I, II, or III.

Except in those instances in which FDA's classification proposal differs from the Panel's recommendation, FDA is adopting the Panel's summary of reasons as the agency's statement of the reasons for issuing the regulations, as

required by section 517(f) of the act (21 U.S.C. 360g(f)).

In the "Panel Recommendations and FDA's Proposed Classifications" section, the summary of reasons for a recommendation identifies any device that is an implant or a life-supporting or life-sustaining device. The summary of reasons for any implant or life-supporting or life-sustaining device that is not recommended for classification into class III also explains why the Panel determined that classification of the device into class III is not necessary to provide reasonable assurance of its safety and effectiveness. Also, FDA's proposed classifications provide a similar explanation for classifying an implant or a life-supporting or life-sustaining device into a class other than class III.

4. Summary of data on which the recommendation is based. In many cases, the Panel based its recommendations on Panel members' personal knowledge of, and familiarity with, the devices under review. The Panel particularly relied upon clinical experience and judgment when considering a simple device that had been used extensively and was accepted widely before the amendments were enacted. The legislative history of the amendments makes clear that the term "data" has a special meaning in section 513(c)(2)(A) of the act, which requires that a Panel recommendation summarize the data upon which a recommendation is based. As used in this section, "data" refers not only to the results of scientific experiments, but also to less formal evidence, other scientific information, or judgments of experts (House Committee on Interstate and Foreign Commerce, Medical Device Amendments of 1976, H.R. Rep. 94–853, 94th Congress, 2d Session 40 (1976)). FDA has determined that personal knowledge of, and clinical experience with, a device constitute valid scientific evidence for classifying certain devices.

In several cases, FDA sought more data and information concerning the classification of a device then were cited by the Panel. References to additional data and information obtained by FDA are found in the section for each ear, nose, and throat device under the heading "Panel Recommendations and FDA's Proposed Classifications." FDA is adopting, as the agency's statement of the basis for issuing the regulation under section 517(f) of the act, the Panel's summary of the data on which a recommendation to classify a device is based, together with any additional data and information cited in the preamble to the proposed classification regulation.

5. *Risks to health.* In identifying the risks to health presented by ear, nose, and throat devices, the Panel recognized that few devices are completely free of risk. The Panel listed the risks it considered most significant, expecially those that are unique to the individual device. In some cases, FDA has identified additional risks to health presented by a device. These additional risks of a device are set out in the preamble under the heading "Panel Recommendations and FDA's Proposed Classifications".

Because the classification recommendations and FDA's proposed classifications do not identify all risks to health presented by ear, nose, and throat devices, future regulations establishing performance standards under section 514 of the act (21 U.S.C. 360d) or requiring premarket approval under section 515(b) of the act (21 U.S.C. 360e(b)) may identify additional risks to health to be addressed by FDA requirements.

Proposed Classifications

Each section for an ear, nose, and throat device under the heading "Proposed Recommendations and FDA's Proposed Classifications," states whether FDA agrees with the Panel's recommendation, and describes the agency's proposed classification of the device.

FDA cautions that the final classification of a device may differ from the proposal. Factors that may cause a change include comments, the agency's reconsideration of existing data and information, and the agency's consideration of new data and information.

Implanted Ear, Nose, and Throat Devices Proposed For Classification into Class II

The Panel recommended that 9 generic types of ear, nose, and throat implanted prosthetic devices be classified into class II. Although the 9 devices are implants intended to remain in the body continously for 30 days or more, the Panel believes that classification into class III (premarket approval) is unnecessary to provide reasonable assurance of the safety and effectiveness of these devices. All 9 devices have been implanted successfully for a number of years. Under the heading "Panel Recommendations and FDA's Proposed Classifications," are statements of the reasons and supporting data used by the Panel and by FDA to determine that classification into class III is not necessary for these 9 devices, as required by sections 513(c)(2)(C) and 513(d)(2)(B).

Priorities for Class II and Class III Devices

For a device that the Panel recommends to be classified into class II or class III, section 513(c)(2)(A) of the act requires that the Panel recommendation include, to the extent practicable, a recommendation for the assignment of a priority for application to the device of a performance standard or premarket approval requirements. In developing its advice concerning priorities ("high," "medium," or "low") of devices recommended for classification into class II or class III, the Panel compared the device with other ear, nose, and throat devices, based on information available to the Panel members concerning the relative importance of use of the device and the relative risks presented by the device. The Panel recommended assignment of a "high priority" only to those class II or class III devices that the Panel believed should receive the agency's immediate attention.

FDA is not proposing at this time to establish priorities for development of performance standards for all class II devices. Section 513(d)(3) of the act authorizes, but does not require, establishment of these priorities. In the **Federal Register** of February 1, 1980 (45 FR 7489 and 45 FR 7493), FDA published notices identifying which class II devices the agency found to warrant a high priority for the development of performance standards. At a later date, the agency will establish priorities for the development of standards for the remaining class II devices. All priorities established by the agency are based on the classification panels' recommendations, available resources, and other relevant factors. The agency's priorities will be reflected in the agency's annual budget request and other publicly available documents and may be published in the **Federal Register**.

The agency intends to proceed as quickly as the agency and classification panel resources permit to require premarket approval of devices classified into class III. There are two factors affecting the length of time necessary before FDA requires submission of premarket approval applications for any particular device that is classified by an FDA regulation into class III: the number of devices reviewed by a panel and the priority of a particular device in relation to other class III devices considered by a classification panel. For example,

where FDA classifies into class III only a few devices within a Panel's specialty area, FDA may at the same time also publish regulations under section 515(b) of the act requiring premarket approval for many of the class III devices considered by the Panel, regardless of whether of a high, medium, or a low priority. Where practical, FDA will publish these section 515(b) regulations during the grace period (30 months) following classification during which a device classified into class III by FDA regulation may lawfully remain on the market without a premarket approval application. The grace period is provided for in section 501(f) of the act (21 U.S.C. 351(f)).

Exemptions for Class I Devices

Section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c) provides that FDA may exempt a device recommended for classification into class I from a requirement under the following sections of the act: section 510 (21 U.S.C. 360), registration; section 519 (21 U.S.C. 360i), records and reports; and section 520(f) (21 U.S.C. 360j(f)), good manufacturing practices.

Under section 510 of the Act, a person "engaged in the manufacture, preparation, propagation, compounding or processing of * * * a device or devices" must register with FDA (section 510(b) through (i)), file a list of devices (section 510 (j)), and notify FDA at least 90 days before beginning commercial distribution of a device (section 510(k)). (See Part 807 (21 CFR Part 807).) Section 510(g)(4) authorizes the agency to exempt a device from section 510 if it finds that compliance with that section is not necessary for the protection of the public health. In § 807.65 (21 CFR 807.65), FDA has exempted certain classes of persons from section 510 of the act. Several device classification panels have recommended that manufacturers of certain class I devices also be exempted from all or some of the requirements of section 510. The agency has determined that protection of the public health requires that manufacturers of medical devices, other than those already exempt under § 807.65, register and list their products with FDA to ensure that the agency can identify these manufacturers and their products and conduct necessary inspections.

The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions for certain devices. Thus, the agency has proposed to exempt manufacturers of certain devices from Subpart E of Part 807 of the regulations, which implements section 510(k) of the act. The agency does not, at this time, anticipate that premarket approval will be required for these devices. The agency believes that the semiannual updating of device listing under section 510(j)(2) of the act will provide FDA with adequate notice of new products within these generic types of devices.

Section 519 of the act authorizes FDA to issue regulations requiring device manufacturers, importers, and distributors to establish and maintain such records, make such reports, and provide such information as the agency may reasonably require to assure that devices are not adulterated or misbranded and to otherwise assure their safety and effectiveness. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation under Part 820 (21 CFR Part 820), published in the **Federal Register** of July 21, 1978 (43 FR 31508). In the future, FDA may publish other regulations under section 519 of the act, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. Whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempted from the requirements, and FDA will issue exemptions that are appropriate.

The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from most requirements of the device GMP regulation. As explained below, the exemption will not extend to two device GMP records requirements.

The device GMP regulation was published in final form in the **Federal Register** of July 21, 1978. At the time of the Panel's recommendations, the GMP regulation had not yet been promulgated, and the agency had not yet developed criteria for exempting manufacturers of a class I device from GMP requirements. The agency has now decided that, if any one of the following criteria is met, FDA will consider exempting from the GMP regulation manufacturers of a class I device that is not labeled or otherwise represented as sterile. The agency will not, however, exempt manufacturers of a device from general requirements concerning records or complaint files. The criteria are:

1. FDA has determined, based on adequate information about current practices in the manufacture of the device and about user experience with the device, that application of the GMP regulation is unlikely to improve the safety and effectiveness of the device.

2. FDA has determined that all possible defects relating to the safety and effectiveness of the device are readily detectable before use, either through visual examination by the user or routine testing before use, e.g., testing a clinical laboratory reagent with positive and negative controls.

3. FDA has determined that any defect in the device that is not readily detectable will not result in a device failure that could have an adverse effect on the patient or other user.

FDA has determined that no device that is labeled or otherwise represented as sterile will be exempted from the device GMP regulation. A sterile device must be subject to the entire GMP regulation to ensure that manufacturers adequately reduce the bioburden (number of microorganisms) on the device and its components during the manufacturing process. This reduction is accomplished through adherence to a comprehensive quality assurance program as is required by the GMP regulation, with adequate environmental controls, trained personnel, appropriate maintenance and calibration of sterilization equipment, recordkeeping concerning lot sterility, strict packaging and labeling controls, and other quality assurance measures.

The agency also has determined that no exemption from the device GMP regulation will extend to § 820.180, with respect to general requirements concerning records, or § 820.198, with respect to complaint files. The agency believes that granting exemptions from these sections would not be in the public interest, and that compliance with these sections is not unduly burdensome for device manufacturers. To ensure that device manufacturers have adequate systems for complaint investigation and followup, all manufacturers are required to comply with the complaint file requirements. All device manufacturers also are required to comply with the general requirements concerning records to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from

other sections of the GMP regulation is still appropriate.

In general, FDA has not initiated proposals to exempt manufacturers of devices from requirements under section 510 or 520(f) of the act, but has acted on the basis of exemption recommendations of the device classification panels. However, FDA has proposed occasionally to exempt manufacturers of certain devices classified into class I or class II from the requirements of certain sections of the GMP regulation, according to the above exemption criteria. Manufacturers and other interested persons may submit comments on the appropriateness of the proposed exemptions of manufacturers of devices, whether the exemptions are proposed in response to recommendations of the panels or on the agency's initiative. Comments requesting additional exemptions should be supported by information showing that the exemption of manufacturers of a device from the premarket notification requirement or the GMP regulation is consistent with the criteria discussed above.

Guidelines for Preparing Petitions Requesting Exemption or Variance From the Device GMP Regulation for Devices Classified Into Class I or Class II

FDA has prepared guidelines on the procedures that should be followed by persons who wish to submit petitions for exemption or variance from the device GMP regulation. These petitions may be submitted in accordance with provisions of section 520(f)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)(2)). The agency announced the availability of the guidelines in a notice published in the **Federal Register** of January 18, 1980 (45 FR 3671).

List of Ear, Nose, and Throat Devices

The following is a list of ear, nose, and throat devices that FDA is proposing to classify, the section in the Code of Federal Regulations under which the regulation classifying the device will be codified, the docket number of the proposed classification regulation, and the proposed classification of each device.

Section	Device	Docket No.	Class
	Subpart B—Ear, Nose, and Throat Diagnostic Devices		
874.1050	Audiometer	78N-1550	II.
874.1060	Acoustic chamber for audiometric testing	78N-1551	II.
874.1070	Short increment sensitivity index (SISI) adapter	78N-1552	II.
874.1080	Audiometer calibration set	78N-1553	II.
874.1090	Auditory impedance tester	78N-1554	II.
874.1100	Earphone cushion for audiometric testing	78N-1555	II.
874.1120	Electronic noise generator for audiometric testing	78N-1556	II.
874.1325	Electroglottograph	78N-1558	II.
874.1500	Gustometer	78N-1561	I.
874.1800	Air caloric stimulator	78N-1565	II.
874.1810	Water caloric stimulator	78N-1566	II.
874.1820	Surgical nerve stimulator/locator	78N-1567	II.
874.1925	Toynbee diagnostic tube	78N-1568	I.
	Subpart C [Reserved]		
	Subpart D—Ear, Nose, and Throat Prosthetic Devices		
874.3300	Hearing aid	78N-1569	II.
874.3310	Hearing aid calibrator and analysis system	78N-1570	II.
874.3320	Group hearing aid or group auditory trainer	78N-1571	II.
874.3330	Master hearing aid	78N-1572	II.
874.3375	Battery-powered artificial larynx	78N-1573	I.
874.3400	Tinnitus masker	78N-1574	III.
874.3430	Middle ear mold	78N-1576	II.
874.3450	Partial ossicular replacement prosthesis	78N-1577	II.
874.3465	Porous polyethylene partial ossicular replacement prosthesis	78N-1637	III.
874.3495	Total ossicular replacement prosthesis	78N-1578	II.
874.3510	Porous polyethylene total ossicular replacement prosthesis	78N-1639	III.
874.3540	Prosthesis modification instrument for ossicular replacement surgery	78N-1579	I.
874.3620	Ear, nose, and throat polyamide mesh or foil synthetic polymer material	78N-1583	II.
874.3630	Ear, nose, and throat porous polyethylene synthetic polymer material	78N-1584	III.
874.3695	Mandibular implant facial prosthesis	78N-1588	II.
874.3730	Laryngeal prosthesis (Taub design)	78N-1589	II.
874.3760	Sacculotomy tack (Cody tack)	78N-1591	II.
874.3820	Endolymphatic shunt tube	78N-1593	II.
874.3850	Endolymphatic shunt tube with valve	78N-1594	III.
874.3880	Tympanostomy tube	78N-1595	II.
874.3910	Porous polyethylene tympanostomy tube	78N-1641	III.
874.3930	Tympanostomy tube with semipermeable membrane	78N-1596	III.
	Subpart E—Ear, Nose, and Throat Surgical Devices		
874.4100	Epistaxis balloon	78N-1599	I.
874.4140	Ear, nose, and throat bur	78N-1601	II.
874.4175	Nasopharyngeal catheter	78N-1602	I.
874.4250	Ear, nose, and throat electric or pneumatic surgical drill	78N-1604	II.
874.4350	Ear, nose, and throat fiberoptic light source and carrier	78N-1606	II.
874.4400	Bronchial, tracheal, or esophageal surgical instrument	78N-1607	II.
874.4410	Surgical instrument for the ear	78N-1608	II.
874.4420	Ear, nose, and throat multiple-use surgical instrument	78N-1609	II.
874.4430	Laryngeal surgical instrument	78N-1610	II.
874.4440	Pharyngeal surgical instrument	78N-1611	II.
874.4450	Nasal and paranasal sinsu surgical instrument	78N-1612	II.
874.4500	Ear, nose, and throat microsurgical carbon dioxide laser product	78N-1613	II.
874.4680	Bronchoscope (flexible or rigid)	78N-1616	II.
874.4685	Ear, nose, and throat endoscopic accessory	78N-1617	II.
874.4710	Esophagoscope (flexible or rigid)	78N-1619	II.
874.4720	Mediastinoscope	78N-1620	II.
874.4750	External laryngostroboscope	78N-1622	I.
874.4755	Laryngostroboscope (patient-contacting)	78N-1643	II.
874.4760	Nasopharyngoscope (flexible or rigid)	78N-1623	II.
874.4770	Otoscope	78N-1624	II.

Section	Device	Docket No.	Class
874.4770	Otoscope	78N-1624	II.
874.4780	Laryngeal-bronchial telescope	78N-1625	II.
874.4900	Tracheostomy tube	78N-1626	II.
874.4910	Tracheal tube cleaning brush	78N-1627	I.
874.4920	Tracheostomy tube cuff	78N-1628	II.
	SUBPART F—EAR, NOSE, AND THROAT THERAPEUTIC DEVICES		
874.5220	Ear, nose, and throat drug administration device	78N-1629	I.
874.5300	Ear, nose, and throat examination and treatment unit	78N-1630	II.
874.5350	Suction antichoke device	78N-1597	III.
874.5370	Tongs antichoke device	78N-1598	III.
874.5550	Powered nasal irrigator	78N-1631	II.
874.5800	External nasal splint	78N-1634	I.
874.5840	Antistammering device	78N-1635	II.
874.5850	Transdermal stimulator	78N-1636	III.

Devices Considered by Two or More Panels or Sections

Many devices were reviewed by two or more device panels or sections. For these devices, FDA will publish each panel's or section's recommendations and a single proposed classification regulation.

6. The Opthalmic; Ear, Nose, and Throat; and Dental Devices Panel and the other panels' or sections' listed below made classification recommendations concerning the following devices:

Device	Other panels or sections
Ear cannula	Surgical and Rehabilitation.
Sinus cannula	General Medical.
Bronchial cannula	Do.
Mastoid chisel	Surgical and Rehabilitation.
Nasal chisel	Do.
Tonsil dissector	Do.
Ear, nose, and throat elevator.	Do.
Ear, nose, and throat forceps	Do.
Ear, nose, and throat headlight.	Do.
Surgical microscope	Do.
Tonsil suturing needle	Do.
Esophageal prosthesis	Do.
Otoplasty prosthesis	Do.
Rhinoplasty prosthesis/nasal dorsal implant.	Surgical and Rehabilitation.
Ear, nose, and throat retractor.	Do.
Nasal gouge	Do.
Ear speculum holder	Do.
Ear, nose, and throat speculum holder.	Do.
Ear, nose, and throat surgical drape.	Do.
Ear, nose, and throat surgical saw (electrical or pneumatic).	Do.
Ear, nose, and throat polytetra-fluoroethylene synthetic polymer with carbon fibers composite material.	Do.
Transilluminator (AS-powered).	Ophthalmic Device Section.
Wood tongue depresser	General Medical.
Atomizer	Respiratory and Nervous System.
Electrically powered nebulizer pump.	Do.
Laryngoscope	Do.
Nasal flowmeter	Do.
Surgical head support	Do.
Craniofacial prosthesis	Respiratory and Nervous System.
Bulb type syringe	General Medical.
Ear, nose, and throat applicator.	Do.

The agency is not at this time publishing the recommendations of the Ear, Nose, and Throat Device section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel to classify the devices listed above. The agency has published, or will publish, these recommendations and proposed classification regulations along with the recommendations of the other panels or sections reviewed the devices. Some of the other panels' recommendations have already been published in the **Federal Register.** The following table shows the current structure of the advisory committees involved with classification of medical devices and a list of all proposed and final classification regulations published to date:

Panel/section name	Publication date in the Federal Register
Circulatory Systems Devices Panel.	March 9, 1979, 44 FR 13284-13434 (proposals); February 5, 1980, 45 FR 7904-7971 (final regulations).
Clinical Chemistry and Hematology Devices Panel:	
Clinical Chemistry Device Section.	
Clinical Toxicology Device Section.	
Hematology and Pathology Device Section.	September 11, 1979, 44 FR 52950-53063 (proposals); September 12, 1980, 45 FR 60576-60651 (final regulations).
General Medical Devices Panel:	
General Hospital and Personal Use Device Section.	August 24, 1979, 44 FR 49844-49954 (proposals); October 21, 1980, 45 FR 69678-69737 (final regulations).
Gastroenterology-Urology Device Section.	January 23, 1981, 46 FR 7562-7641 (proposals).
Immunology and Microbiology Devices Panel:	
Immunology Device Section.	April 22, 1980, 45 FR 27204-27359 (proposals).
Microbiology Device Section.	April 22, 1980, 45 FR 27204-27359 (proposals).
Obstetrics-Gynecology and Radiologic Device Panel:	
Obstetrics-Gynecology Device Section.	April 3, 1979, 44 FR 19894-19971 (proposals); February 26, 1980, 45 FR 12682-12720 (final regulations).
Radiology Device Section.	
Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel:	
Ophthalmic Device Section.	
Ear, Nose, and Throat Device Section.	January 22, 1982 (proposals).
Dental Device Section	December 30, 1980, 45 FR 85962-86168 (proposals).
Respiratory and Nervous System Devices Panel:	
Anesthesiology Device Section.	November 2, 1979, 44 FR 63292-63426 (proposals).
Neurological Device Section.	November 28, 1978, 43 FR 54640-55732 (proposals); September 4, 1979, 44 FR 51726-51778 (final regulations).
Surgical and Rehabilitation Devices Panel:	
Physical Medicine Device Section.	August 28, 1979, 44 FR 50458-50537 (proposals).
Orthopedic Device Section.	
General and Plastic Surgery Device Section.	

Ear, Nose, and Throat Bite Block

The Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel recommended that ear, nose, and throat bite blocks be classified into class I and be exempt from premarket notification regulations under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) because the Panel believes general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, this device and identified no risk to health with the use of the device. The Respiratory and Nervous System Device Panel recommended that bit blocks be classified into class II. FDA has determined that these devices are essentially the same, and that the risks to health identified by the Respiratory and Nervous System Devices Panel also are presented by the ear, nose, and throat bite block. FDA agrees with the Respiratory and Nervous System Devices Panel's reommendations, but disagrees with the Ophthalmic; Ear, Nose, and Throat; and Dental Panel's recommendations. FDA has published in the **Federal Register** of September 4, 1979 (43 FR 51726) a final regulation classifying bite blocks into class II. The

agency is, therefore, not publishing a separate proposed regulation for the ear, nose, and throat bite block.

Tuning Fork

The Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel recommended that ear, nose, and throat tuning forks be classified into class I with no exemptions because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, this divice and identified no risk to health with the use of the device. The Respiratory and Nervous System Devices Panel also recommended that tuning forks be classified into class I. Additionally, this panel recommended that manufacturers of the device not be required to comply with the good manufacturing practice regulation in manufacturing the device because tuning forks require no special qualities for medical use. FDA agrees with both Panel's recommendations regarding the classification of the device. FDA has published in the **Federal Register** of September 4, 1979 (43 FR 51726) a final regulation classifying tuning forks into class I and FDA also exempted manufacturers of the tuning fork from the good manufacturing practice regulation under section 520(f) of the act, with the exception of §§ 820.180 and 820.198, because all defects related to safety and effectiveness of the device are readily detectable prior to use. The agency is, therefore, not publishing a separate proposed regulation for the ear, nose, and throat tuning fork.

Auditory Evoked Measuring Equipment

The Ophthalmic' Ear, Nose, and Throat; and Dental Devices Panel recommended that auditory evoked measuring equipment be classified into class II because the calibration characteristics of the device need to be controlled to prevent misdiagnosis resulting from incorrect data obtained from a miscalibrated device; the electrical properties of the device need to be controlled to prevent electrical shock; and the acoustic output levels from the device need to be controlled to prevent hearing damage due to excessive levels. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a performance standard for this device. The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device. The Respiratory and Nervous System Devices Panel recommended that the two major components of this device, the evoked response auditory stimulator and the physiological signal conditioner, be classified into class II. FDA agrees with both Panel's recommendations. FDA has published in the **Federal Register** of September 4, 1979 (43 FR 51726) a final regulation classifying the evoked response auditory stimulator and the physiological signal conditioner into class II. FDA has determined that the auditory evoked measuring equipment recommended for classification by the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel is identical to the combination of the evoked response auditory stimulator and the physiological signal conditioner, which were considered by the Respiratory and Nervous System Device Panel. The agency, therefore, is not publishing a separate proposed regulation for the auditory evoked measuring equipment.

Injectable Teflon Paste and Absorbable Gelatin Sponge

At a future date, FDA will publish in the **Federal Register** a final regulation stating that two ear, nose, and throat devices (injectable teflon paste and absorbable gelatin sponge) are classified into class III (premarket approval) by the transitional provisions of the act in section 520(1) (21 U.S.C. 360j(1)). The Transitional provisions classify into class III any device previously regarded by FDA as a new drug.

Panel Recommendations and FDA's Proposed Classifications

Section 874.1050; Docket No. 78N-1550; Audiometer.

The Ear, Nose, and Throat Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of audiometers:

1. Identification: An audiometer or automated audiometer is an electroacustic device that produces controlled levels of test tones and signals intended for use in conducting diagnostic hearing evaluations and assisting in the diagnosis of hearing loss and possible otologic disorders.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that audiometer be classified into class II (performance standards) because the calibration characteristics of the device need to be controlled to prevent erroneous measurement of hearing thresholds which could result in misdiagnosis and inappropriate treatment; the electrical properties of the device need to be controlled to prevent electrical shock; and the volume of sound produced by the device needs to be controlled to prevent excessive acoustic output levels from causing hearing damage. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard. The Panel recommends that audiometer manufacturers comply with the American National Standards Institute (ANSI) voluntary standard for audiometers, ANSI S3.6–1969 (Ref. 1) and indicate conformance in the labeling for the device. The Panel further recommends that audiometer be calibrated at regular intervals in accordance with a systematic maintenance program.

4. Summary of data on which the recommendation is based: The Panel reviewed a 1975 survey of audiometers conducted by the Texas State Department of Health which reported that the majority of the surveyed audometers did not meet minimum standards (Ref. 2). Rufus L. Grason, chairman of Working Group No. 35 of the ANSI Committee on Bioacoustics, discussed the current ANSI standard for audiometer (Ref. 1) and the activites of that working group in developing a new ANSI standard for audiometers at the May 19, 1976, Panel meeting. The Panel based its recommendation on its review of the above reference, the information provided by Mr. Grason and on the Panel member's personal knowledge of, and clinical experience with, this device.

5. Risks to health: (a) Misdiagnosis: Defective calibration of this device may result in incorrect measurement of hearing thresholds which could result in misdiagnosis and inappropriate treatment. (b) Electrical shock: Excessive voltage or current levels may cause electrical shock. (c) Hearing damage: Failure of the device to adequately control the volume of sound produced could result in damage to hearing.

FDA agrees with the Panel recommendation and its proposing that audiometers be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.1060; Docket No. 78N–1551; Acoustic chamber for audiometric testing.

The Ear, Nose and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of acoustic chambers for audiometric testing:

1. Identification: An acoustic chamber for audiometric testing is a room that is intended for use in conducting diagnostic hearing evaluations and that eliminates sound reflections and provides isolation from outside sounds.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that acoustic chambers for audiometric testing be classified into class II (performance standards) because of the need to prevent inadequate oxygen supply to the patient by assuring proper ventilation and properly operating door latches. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard. The Panel recommended that labeling for the device should specify its acoustic attenuation characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Asphyxiation: Insufficient ventilation or improperly operating door latches can result in an inadequate oxygen supply to the patient.

FDA agrees with the Panel recommendation and is proposing that acoustic chambers for audiometric testing be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.1070; Docket No. 78N–1552; Short increment sensitivity index (SISI) adapter.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of short increment sensitivity index (SISI) adapters:

1. Identification: A short increment sensitivity index (SISI) adapter is a device that is intended for use with an audiometer in diagnostic hearing evaluations. A SISI adapter provides short periodic sound pulses in specific small decibel increments that are superimposed on the audiometer's output tone frequency.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that short increment sensitivity index (SISI) adapters be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Electrical shock: Excessive current or voltage levels may cause electrical shock.

FDA agrees with the Panel recommendation and is proposing that short increment sensitivity index (SISI) adapters be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.1080; Docket No. 78N–1553; Audiometer calibration set.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of audiometer calibration sets:

1. Identification: An audiometer calibration set is an electronic reference device that is used to calibrate an audiometer. It measures the sound frequency and intensity characteristics that emanate from an audiometer earphone. The device consists of an acoustic cavity of known volume, a sound level meter, a microphone with calibration traceable to the National Bureau of Standards, oscillators, frequency counters, microphone amplifiers, and a recorder. The device can measure selectable audiometer test frequencies at a given intensity level, and selectable audiometer attenuation settings at a given test frequency.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that audiometer calibration sets be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock, the calibration characteristics need to be controlled to prevent erroneous measurement of hearing thresholds by the audiometer which could result in misdiagnosis and inappropriate treatment, and excessive output sound levels from the audiometer which may produce hearing damage. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Electrical shock: Excessive voltage or current levels may cause electrical shock. (b) Hearing damage: Incorrect data from this device may result in excessive output sound

pressure levels from the audiometer causing hearing damage. (c) Misdiagnosis: Defective calibration of this device may result in incorrect measurement of hearing thresholds by the audiometer which could result in misdiagnosis and inappropriate treatment.

FDA agrees with the Panel recommendation and is proposing the audiometer calibration sets be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.1090; Docket No. 78N-1554; Auditory impedance tester.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of auditory impedance testers:

1. Identification: An auditory impedence tester is a device that is intended to change the air pressure in the external auditory canal and measure and graph the mobility characteristics of the tympanic membrane to evaluate the functional condition of the middle ear. The device is used to determine abnormalities in the mobility of the tympanic membrane due to stiffness, flaccidity, or the presence of fluid in the middle ear cavity. The device is also used to measure the acoustic reflex threshold from contractions of the stapedial muscle, to monitor healing of tympanic membrane grafts or stapedectomies, or to monitor followup treatment for inflammation of the middle ear.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that auditory impedance testers be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock, the static pressure emitted by the device needs to be controlled to prevent damage to the tympanic membrane, and the acoustic output levels from the device need to be controlled to prevent hearing damage. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: Rufus L. Grason, chairman of Working Group No. 35 of the American National Standards Institute (ANSI) Committee on Bioacoustics, discussed clinical auditory impedance testers at the May 19, 1976, meeting of the Panel. He noted that although the device is used in most audiology clinics, there has been no standard procedure for its calibration. Mr. Grason stated that ANSI Working Group No. 35 is preparing standards for auditory impedance testing devices. The Panel based its recommendation on Mr. Grason's testimony and the Panel members' personal knowledge of, and clinical experience with, this device.

5. Risks to health: (a) Electrical shock: Excessive current or voltage levels may cause electrical shock. (b) Damage to tympanic membrane: Insufficiently controlled static pressure may cause damage to the tympanic membrane. (c) Hearing damage: Excessive sound levels from this device may cause hearing damage.

FDA agrees with the Panel recommendation and is proposing that auditory impedance testers be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.1100; Docket No. 78N-1555; Earphone cushion for audiometric testing.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of earphone cushions for audiometric testing:

1. Identification: An earphone cushion for audiometric testing is a device that is intended to cover an audiometer earphone during audiometric testing to provide and acoustic coupling (sound connection path) between the audiometer earphone and the patient's ear.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that earphone cushions for audiometric testing be classified into class II (performance standards) because of the need to ensure the biocompatibility of the materials used in the device to prevent contact dermatitis. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Contact dermatitis: Use of a material which is not biocompatible in this device may cause contact dermatitis.

FDA agrees with the Panel recommendation and is proposing that earphone cushions for audiometric testing be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.1120; Docket No. 78N-1556; Electronic noise generator for audiometric testing.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of electronic noise generators for audiometric testing:

1. Identification: An electronic noise generator for audiometric testing is a device that consists of a swept frequency generator, an amplifier, and an earphone and that is intended to introduce a masking noise into the ear that is not being tested during an audiometric evaluation so as to minimize that ear's ability to sense test tones and signals being generated for the ear being tested.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that electronic noise generators for audiometric testing be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Electrical shock: Excessive current or voltage levels may cause electrical shock.

FDA agrees with the panel recommendation and is proposing that electronic noise generators for audiometric testing be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. The agency notes that in addition to the risks to health discussed in the Panel recommendation, there is a risk of hearing damage to the patient resulting from excessive sound levels from the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.1325; Docket No. 78N–1558; Electroglottograph.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of electroglottographs:

1. Identification: An electroglottograph is an AC-powered device that employs a pair of electrodes that are placed in contact with the skin on both sides of the larynx and held in place by a collar. It is intended to measure the electrical impedance of the larynx to aid in assessing the degree of closure of the vocal cords, confirm laryngeal diagnosis, aid behavioral treatment of voice disorders, and aid research concerning the laryngeal mechanism.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that electroglottographs be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on a presentation by William Berry, Ph.D., Veterans Administration Medical Center, Memphis, Tennessee, at its March 19, 1979 meeting. Dr. Berry described his personal experience with this device and attested its effectiveness with minimal risks to health.

5. Risks to health: Electrical shock: Excessive current or voltage levels may cause electrical shock.

FDA agrees with the Panel recommendation and is proposing that electroglottographs be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. The agency notes that in addition to the risks to health discussed in the Panel recommendation, there is a risk to the patient of misdiagnosis caused by inaccurate functioning of the device and subsequent inappropriate therapy. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.1500; Docket No. 78N–1561; Gustometer.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of gustometers:

1. Identification: A gustometer is a battery-powered device that consists of two electrodes that are intended to be placed on both sides of the tongue at different taste centers and that provides a galvanic stimulus resulting in taste sensation. It is used for assessing the sense of taste.

2. Recommended classification: Class I (general controls). The Panel recommends that the device be exempt from premarket notification regulations under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)).

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that this is a simple device which presents no hazards to health and can be adequately regulated by general controls. The Panel recommends that this device be exempt from the requirements of section 510(k) of the act, premarket notification, because the Panel believes that there is reasonable assurance that any substantially equivalent device or modification of the device would be safe and effective.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that gustometers be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency disagrees with the Panel's recommendation that manufacturers of gustometers be exempt from premarket notification under section 510(k) of the act. Under section 510(g)(4) the agency may exempt a manufacturer from section 510(k) only upon a finding that compliance with section 510(k) is not necessary for the protection of the public health. In the case of gustometers, the agency cannot make the required finding. Premarket notification by manufacturers of this device assures that FDA learns of new products, and of significant modifications of existing products, for which premarket approval is required.

However, FDA is proposing that manufacturers of these devices who do not label or otherwise represent them as sterile be exempt, in the manufacture of the devices, from all requirements of the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. See the discussion under the heading "Exemptions for Class I Devices" for a complete explanation of the agency's policies concerning exemptions.

Section 874.1800; Docket No. 78N-1565; Air caloric stimulator.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of air caloric stimulators:

1. Identification: An air caloric stimulator is an AC-powered device that delivers a stream of air to the ear canal at controlled rates of flow and temperature and that is intended for vestibular function testing of a patient's body balance system. The vestibular stimulation of the semicircular canals produces involuntary eye movements that are measured and recorded by a nystagmograph.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that air caloric stimulators be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock. The calibration characteristics of the device need to be controlled to prevent excessive output air pressure and temperature levels, which may cause increased stress and possibly precipitate a heart attack or seizure. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard. The Panel recommends the following restrictions: (1) Irrigation should be performed under the supervision of a physician. (2) A medical history and otoscopic examination should precede use of this device. (3) Caution should be exercised when using this device with patients with histories of heart disease or epileptic seizures.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Electrical shock: Excessive current or voltage levels from this device may cause electrical shock. (b) Coronary attack or seizure: If a sufficiently high temperature reaches the patient's inner ear, it may cause stresses leading to coronary attacks or seizures in patients with a history of coronary disease or epilepsy. The hazard is more likely in patients with a perforated tympanic membrane. Because the air caloric stimulator does not introduce water into the ear and because the presence of water increases the rate of heat exchange, the Panel believes that the risk of coronary attack or seizure is much less using the air caloric stimulator than when using the water caloric stimulator for the same uses.

FDA agrees with the Panel recommendation and is proposing that air caloric stimulators be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.1810; Docket No. 78N-1566; Water caloric stimulator.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of water caloric stimulators:

1. Identification: A water caloric stimulator is an AC-powered device that delivers a stream of water to the ear canal at controlled rates of flow and temperature and that is intended for vestibular function testing of a patient's body balance system. The vestibular stimulation of the semicircular canals produces involuntary eye movements that are measured and recorded by a nystagmograph.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that water caloric stimulators be classified into class II because the electrical properties of the device need to be controlled to prevent electrical shock; the calibration characteristics of the device need to be controlled to prevent excessive output water pressure and temperature levels causing eardrum perforation, water in the middle ear, or increased stress which may precipitate a heart attack or seizure; and the sterility of the water delivered by this device needs to be controlled to prevent infection. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel recommends the following restrictions: (1) Irrigation should be performed under the general supervision of a physician. (2) A medical history and otoscopic examination should precede use of this device. (3) Caution should be exercised when using this device with patients with histories of heart disease or epileptic seizures.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Ear infection: Contaminants in the water may cause infection in the ear. (b) Perforated eardrum: High water pressure from this device may cause a perforation of the tympanic membrane. (c) Water in the middle ear: Use of this device with individuals with a perforated eardrum may cause the accumulation of water in the middle ear space. (d) Coronary attack or seizure: If a sufficiently high temperature reaches the patient's inner ear, it may cause stresses leading to coronary attacks or seizures in patients with a history of coronary disease or epilepsy. The hazard is more likely in patients with a perforated tympanic membrane. Because of the increased rate of heat exchange in the ear when water is present, the Panel believes that the risk of coronary attack or seizure is much greater using the water caloric stimulator than when using the air caloric stimulator for the same uses. (e) Electrical shock: Excessive current or voltage levels may cause electrical shock.

FDA agrees with the Panel recommendation and is proposing that water caloric stimulators be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.1820; Docket No. 78N-1567; Surgical nerve stimulator/locator.

The Ear, Nose, and Throat Device Classification Panel and the General and Plastic Surgery Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of surgical nerve stimulator/locators:

1. Identification: A surgical nerve stimulator/locator is a device that is intended to provide electrical stimulation to the body to locate and

identify nerves and to test their excitability.

2. Recommended classification: Class II (performance standards). The Ear, Nose, and Throat Device Classification Panel recommends that establishing a performance standard for this device be a high priority. The General and Plastic Surgery Device Classification Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panels recommend that surgical nerve stimulator/locators be classified into class II because the device applies an electrical current to the patient's body, and the Panels believe that this current should be controlled to prevent electrical shock to the patient. The Ear, Nose, and Throat Device Classification Panel recommends that the device should only be used under the supervision of medically trained personnel and that standards for surgical nerve stimulator/locators should be developed as soon as possible by a multidisciplinary neuroscience group. The Panels believe that general controls alone would not provide sufficient control over the hazards associated with this device. The Panels believe that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: Both Panels based their recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Both Panels identified the following risks to health: Electrical shock: Excessive current or voltage levels, or improper grounding of this device, may cause electrical shock or nerve damage to the patient or electrical shock to the operator.

FDA agrees with the Panels' recommendations and is proposing that surgical nerve stimulator/locators be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device. The agency notes that in addition to the risks to health identified by the Panels, there are hazards to the patient from inaccurate functioning of this device causing misdiagnosis and subsequent inappropriate therapy.

FDA has reviewed the recommendation of the Ear, Nose, and Throat Device Classification Panel and of the General and Plastic Surgery Device Classification Panel for surgical nerve stimulator/locators and has concluded that the classification of this device should be published in the part of the Code Federal Regulations for ear, nose, and throat devices.

Section 874.1925; Docket No. 78N-1568; Toynbee diagnostic tube.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of toynbee diagnostic tubes:

1. Identification: A toynbee diagnostic tube is a listening device intended to determine the degree of openness of the eustachian tube.

2. Recommended classification: Class I (general controls). The Panel recommends that the device be exempt from premarket notification requirements under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)).

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that it is a simple device which presents no hazards to health. The Panel recommends that this device be exempt from the requirements of section 510(k) of the act, premarket notification, because the Panel believes that there would be reasonable assurance that any substantially equivalent device or modification of the device would be reasonably safe and effective.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that toynbee diagnostic tubes be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency disagrees with the Panel recommendation that manufacturers of toynbee diagnostic tubes be exempt from premarket notification under section 510(k) of the act. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510(k) of the act only upon a finding that compliance with this section is not necessary for the protection of the public health. In the case of the toynbee diagnostic tubes, the agency cannot make the required finding. Premarket notification by manufacturers of this device assures that FDA learns of new products, and of significant modifications of existing products, for which premarket approval is required.

Section 874.3300; Docket No. 78N-1569; Hearing aid.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of hearing aids:

1. Identification: A hearing aid is a wearable electronic sound-amplifying device intended to compensate for impaired hearing. This generic type of device excludes tinnitus maskers, master hearing aids, and group hearing aids or group auditory trainers.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that hearing aids be classified into class II (performance standards) because the acoustic output levels of this device need to be controlled to prevent hearing damage. The Panel recommended that manufacturers comply with a recently developed initial standard that specifies hearing aid test methods (Ref. *3*). The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: The volume of sound produced by the device needs to be controlled to prevent excessive acoustic output levels from causing hearing damage.

FDA agrees with the Panel recommendation and is proposing that hearing aids be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by

this device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information available to estalbish a performance standard for this device. FDA has already issued professional and patient labeling requirements for, and conditions for sale of, these devices. These requirements are contained in 21 CFR 801.420 and 801.421. The identification of hearing aids in this regulation differs from the identification provided in the professional and patient labeling regulations for hearing aids in that the identification provided here specifically excludes several devices (tinnitus maskers, master hearing aids, and group hearing aids or group auditory trainers) that are subject to separate proposed classification regulations.

FDA recently published final regulations regarding to applications for exemption from Federal preemption of State hearing aid requirements. These regulations were published in the **Federal Register** of October 10, 1980 (45 FR 67321, 67325, and 67326).

Section 874.3310; Docket No. 78N-1570; hearing aid calibrator and analysis system.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of hearing aid calibrator and analysis systems:

1. Identification: A hearing aid calibrator and analysis system is an electronic reference device intended to calibrate and assess the electroacoustic frequency and sound intensity characteristics emanating from hearing aids, master hearing aids, group hearing aids or group auditory trainers. The device consists of an acoustic complex of known cavity volume, a sound level meter, a microphone, oscillators, frequency counters, microphone amplifers, a distortion analyzer, a chart recorder, and a hearing aid test box.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that hearing aid calibrator and analysis systems be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock and the calibration characteristics of the device need to be controlled to prevent erroneous calibration of hearing aids and excessive output levels from hearing aids that may cause hearing damage. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Electrical shock: Excessive current or voltage levels may cause electrical shock. (b) Hearing damage: Defective components in this device may result in erroneous calibration of a hearing aid, possibly resulting in excessive output levels from the hearing aid which could cause hearing damage.

FDA agrees with the Panel recommendation and is proposing that hearing aid calibrator and analysis systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.3320; Docket No. 78N-1571; Group hearing aid or group auditory trainer.

The Ear, Nose, and Throat Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of group hearing aids or group auditory trainers:

1. Identification: A group hearing aid or group auditory trainer is a hearing aid that is intended for use in communicating simultaneously with one or more listeners having hearing impairment. The device is used with an associated transmitter microphone. It may be either monaural or binaural, and it provides coupling to the ear through either earphones or earmolds. The generic types of applications: hardwire systems, inductance loop systems, and wireless systems.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that group hearing aids or group auditory trainers be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock and the acoustic output levels of the device need to be controlled to prevent hearing damage. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Hearing damage: Excessive output sound pressure levels may cause hearing damage. (b) Electrical shock: Excessive current or voltage levels may cause electrical shock.

FDA agrees with the Panel recommendation and is proposing that group hearing aids or group auditory trainers be classified into class II (performance standards). The group auditory trainers identified in this regulation are exempted from the regulation concerning labeling and conditions for sale of hearing aids, as stated in 21 CFR 801.421(e). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.3330; Docket No. 78N-1572; Master hearing aid.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of master hearing aids:

1. Identification: A master hearing aid is an electronic device intended to simulate a hearing aid during audiometric testing. It has adjustable acoustic output levels, such as those for gain, output, and frequency response. The device is used to select and adjust a person's wearable hering aid.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that master hearing aids be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock and the calibration characteristics of the device need to be controlled to prevent excessive acoustic output levels which may cause hearing damage. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient informatin to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on a presentation by Harry Levitt, Ph. D., City University of New York, at the January 24–25, 1978 Panel meeting and on the Panel members' personal knowledge of, and clinical experience with, this device. In his presentation, Dr. Levitt discussed the use of a master hearing aid to select, fit, and adjust hearing aids. Dr. Levitt also discussed the hazards master hearing aids pose, and he recommended that standards specifying minimum performance characteristics be developed.

5. Risks to health: (a) Electrical shock: Excessive voltage or current levels from this device may cause electrical shock. (b) Hearing damage: Inaccurate calibration of this device may result in excessive acoustic output levels which may cause hearing damage.

FDA agrees with the Panel recommendation and is proposing that master hearing aids be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. The agency notes that in addition to the risks to health identified by the Panel, there is hazard to the patient from inaccurate functioning of this device causing misdiagnosis and subsequent inappropriate therapy. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.3375; Docket No. 78N–1573; Battery-powered artificial larynx.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of battery-powered artificial larynxes:

1. Identification: A battery-powered artificial larynx is an externally applied device intended for use in the absence of the larynx to excite the vocal cords. When held against the skin in the area of the voicebox, the device generates mechanical vibrations and thereby excites the vocal cords to produce sound.

2. Recommended classification: Class I (general controls). The Panel recommends that the device be exempt from premarket notification requirements under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)).

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that it is a simple device which presents no hazards to health. The Panel recommends that this device be exempt from the requirements of section 510(k) of the act, premarket notification, because the Panel believes there would be reasonable assurance that any substantially equivalent device, or modification of the device, would be safe and effective.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that battery-powered artificial larynxes be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency disagrees with the Panel recommendation that manufacturers of battery-powered artificial larynxes be exempt from premarket notification under section 510(k) of the act. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510(k) only upon a finding that compliance with section 510(k) is not necessary for the protection of the public health. In the case of battery-powered artificial larynxes, the agency cannot make the required finding. Premarket notification by manufacturers of this device assures that FDA learns of new products, and of significant modifications of existing products, for which premarket approval is required.

However, FDA is proposing that manufacturers of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. See the discussion under the heading "Exemptions for Class I Devices" for a complete explanation of the agency's policies concerning exemptions.

Section 874.3400; Docket No. 78N–1574; Tinnitus masker.

The Ear, Nose, and Throat Device Classification Panel, an advisory committee, made the following recommendations regarding the classification of tinnitus maskers:

1. Identification: A tinnitus masker is an electronic device intended to generate noise of sufficient intensity and bandwidth to mask ringing in the ears or internal head noise. Because the device is able to mask internal noises, it is also used as an aid in hearing external noises and speech.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that tinnitus maskers be classified into class III because the Panel believes that the device presents a potential unreasonable risk of illness or injury because long-term use may result in progressive hearing loss from overrstimulation. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a performance standard would not provide reasonable assurance of the safety and effectiveness of the device and that there is insufficient information to establish a standard. Therefore, the device should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on a presentation made to the Panel on January 16, 1978, by J. Vernon, Ph.D., American Tinnitus Association, and on the Panel's review of two papers addressing the question of the safety and effectiveness of tinnitus maskers (Refs. *4* and *5*).

5. Risks to health: Hearing damage: High acoustic output levels from this device over long-term periods may result in progressive hearing loss.

FDA agrees with the Panel recommendation and is proposing that tinnitus maskers be classified into class III (premarket approval). The agency believes that the device presents a potential unreasonable risk of illness or injury because use of the device at high acoustic output levels over long periods of time may result in progressive hearing loss. The agency believes that general controls or performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

Section 874.3430; Docket No. 78N-1576; Middle ear mold.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of middle ear molds:

1. Identification: A middle ear mold is a preformed device that is surgically implanted and intended to reconstruct the middle ear cavity during repair of the tympanic membrane. The device permits an ample air-filled cavity to be maintained in the middle ear and promotes regeneration of the mucous membrane lining of the middle ear cavity. A middle ear mold is made of materials such as polyamide, polytetrafluoroethylene, silicone elastomer, or polyethylene, but does not contain porous polyethylene.

2. Recommended classification Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that middle ear molds be classified into class II (performance standards) because the properties of the devices material and its sterlization need to be controlled to prevent an adverse tissue reaction or injury to the patient. The Panel believes that general controls would not provide sufficient control over these characteristics. Although this device is an implant, the Panel does not believe that premarket approval is necessary to assure its safety and effectiveness. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard. The Panel recommends that labeling include a sketch that would indicate geometric specifications as determined by the manufacturer.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device, and on the Panel's review of the medical literature. There has been extensive clinical use of middle ear molds with minimal risks, and the medical literature attests their safety and effectiveness (Refs. *1, 2,* and *3*).

5. Risks to health: (a) Adverse tissue reaction: The use of materials in this device that are not biologically or mechanically compatible with the body may cause an adverse tissue reaction with the possible migration and extrusion of the implant. (b) Infection: If the device materials are not properly sterilized or are contaminated by microorganisms associated with foreign particles that are electrostatically attracted to the device materials, an infection could result.

FDA agrees with the Panel recommendation and is proposing that middle ear molds be classified into class II (performance standards). Although the device is an implant, the agency believes that premarket approval is not necessary because of the extensive clinical usage of middle ear molds over a long period of time and because there is sufficient information to establish a performance standard that would provide reasonable assurance of the safety and effectiveness of the device. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risk to health presented by the device.

FDA has reviewed representative clinical literature on use of middle ear molds (Refs. *6, 7,* and *8*). Sheehy, J. L. and J. A. Crabtree (Ref. *6*) reported on the use in 303 cases of middle ear molds made of either polyamide or silicone elastomer in staged tympanostomy. Thin silicone elastomer (0.005 inch) was preferred by the authors for routine use, but thick silicone elastomer (0.04 inch) or polyamide sheeting (0.3 millimeter) was preferred in cases of extensive mucous membrane destruction in the middle ear. After followup periods that ranged from 6 months to 6 years, the patients' hearing test results in these staged tympanostomies showed 33 percent within 10 decibels and 85 percent within 30 decibels of the preoperative bone conduction levels. No complications were reported from the use of these middle ear molds. Palve et al. (Ref. *7*) reported patients' hearing test results after 545 ear operations after a median followup period of 3 years. In the group that had the middle ear mucosa excised, hearing results were poorest in those cases in which the promontory was left bare as compared to those cases in which methods were used to prevent adhesions, such as the use of middle ear molds made of silicone elastomer sheeting. House and Sheehy (Ref. *8*) reported that the use of polyethylene or polytetrafluoroethylene film to cover the surfaces of the middle ear during ear surgery to avoid formation of adhesions was effective. The authors reported that the patients' hearing test results showed only slight hearing loss following ear surgery during which middle ear mucosa was removed and these middle ear molds were inserted, compared to patient's hearing loss following ear surgery in cases in which the middle ear mucosa was not removed and middle ear molds not used.

Section 874.3450; Docket No. 78N-1577; Partial ossicular replacement prosthesis.

The Ear, Nose, and Throat Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of partial ossicular replacement prostheses:

1. Identification: A partial ossicular replacement prosthesis is an implanted device that is intended for use in the reconstruction of segments of the ossicular chain and that facilitates the conduction of sound waves to the inner ear. The device is made of materials such as stainless steel, tantalum, polytetraflouroethylene, polyethylene, polytetrafluoroethylene with carbon fibers composite, absorbable gelatin material, or from a combination of these materials, but it does not contain porous polyethylene.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that partial ossicular replacement prostheses be classified into class II (performance standards) because the properties of the materials used in the device and the sterilization of the device need to be controlled to prevent an adverse tissue reaction or injury to the patient. The Panel recommended that the labeling of partial ossicular replacement prostheses that contain absorbable gelatin material contain a warning statement that there may be an increased risk to the inner ear with the use of an absorbable gelatin wire prosthesis if it is placed in direct contact with the perilymph (the fluid contained in the space separating the membranes from the long labyrinth of the ear). To reduce this risk, the Panel recommended use of a tissue covering of

fat, fascia, or vein graft between the absorbable gelatin component of the prosthesis and the oval window. The Panel believes that general controls alone would not provide sufficient control over these characteristics. Although this device is an implant, the Panel does not believe that premarket approval is necessary to assure its safety and effectiveness. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on a presentation by Beverly Armstrong, M.D., at the September 28, 1976 Panel meeting and on the Panel member's personal knowledge of, and clinical experience with, this device. Dr. Armstrong reviewed the medical literature on the use of this device (Ref. *9*).

5. Risks to health: (a) Adverse tissue reaction: The use of materials in this device that are not biologically or mechanically compatible with the body may cause an adverse tissue reaction with possible migration and extrusion of the implant. (b) Infection: If the device materials are not properly sterilized or are contaminated by microoganisms associated with foreign particles that are electrostatically attracted to the device materials, an infection could result.

FDA agrees with the Panel recommendations and is proposing that partial ossicular replacement prostheses be classified into class II (performance standards). Although the device is an implant, the agency believes that premarket approval is not necessary because of the clinical usage of partial ossicular replacement prostheses over a long period of time and because there is sufficient information to establish a performance standard that would provide reasonable assurance of the safety and effectiveness of the device. The agency believes that a performance standard is necessary for this device because general controls alone are sufficient to control the risks to health presented by the device.

FDA has reviewed pertinent clinical literature on partial ossicular replacement protheses (Refs. *9* through *18*). The presentation delivered to the Panel on September 28, 1976 by Dr. Armstrong (Ref. *9*) summarized the results of 46,470 stapedectomy procedures performed by 26 otolaryngologists between 1959 and 1976. Data indicated that the success rate for this operation was over 95 percent when using a prosthetic device. The data further indicated that of the 46,470 procedures performed only 1.9 percent of the patients receiving the prosthesis showed no improvement in their condition. About 1.5 percent of the patients showed a deterioration from their original condition, in that 0.41 percent showed further hearing loss with some tinnitus, 0.16 percent indicated disturbance of their equilibrium, 0.26 percent had an unjury to their facial or chorda tympani nerve, 0.26 percent exhibited perilymph leakage and some fistulas, 0.032 percent had severe otitis media, labyrinthitis, or meningitis, and 0.0086 percent died as a result of their complications.

Sheehy (Ref. *10*) reported on the results of 50 cases involving stapes surgery with a stainless steel incus replacement prosthesis. Followup data at 6 months or longer indicated that in 36 of of 46 patients (78 percent) the air-bone gap was closed to within 15 decibels of the preoperative bone conduction level. Satisfactory results were observed in another 10 percent of the cases. One case was observed as having failed due to displacement of the prosthesis out of the oval window. Schuknecht and oleksuik (Ref. *11*) reported on the use of metal prostheses in stapes surgery. Between October 1956 and January 1959, 166 prostheses were implanted, or which 30 were tantalum and 136 were stainless steel. At three months post-operative followup a hearing level of 30 decibels or better was recorded for the three speech frequencies by 142 (86 percent) of the patients. Twenty-two patients showed no change, and two had hearing losses of 6 decibels or more. The air-bone gap was closed 50 percent or more in 68 percent of the patients.

Schuknecht, McGee, and Colman (Ref. *12*) reported that of 287 stapedectomies in which a tissue-metal implant was used, an air-bone gap of 10 decibels or less was acquired in 74.9 percent of the cases. Delayed cochlear degeneration occurred in 2.4 percent of the cases.

Section 874.3465; Docket No. 78N–1637; Porous polyethylene partial ossicular replacement prosthesis.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of porous polyethylene partial ossicular replacement prostheses:

1. Identification: A porous polyethylene partial ossicular replacement prosthesis is an implanted device intended for the functional reconstruction of segments of the ossicular chain and facilitates the conduction of sound waves from the tympanic membrane to the inner ear. The device is made of porous polyethylene alone or porous polyethylene with other materials.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be medium priority.

3. Summary of reasons for recommendation: The Panel recommends that porous polyethylene partial ossicular replacement prostheses by classified into class III because this device is implanted in the human body and the Panel believes that premarket approval is necessary to provide reasonable assurance of its safety and effectiveness. The Panel notes that the literature on the clinical use of porous polyethylene partial ossicular replacement prostheses (Refs. *19* and *20*) does not identify the polyethylene material used in terms of its physical and chemical characteristics such as molecular weight range, additives, catalysts, mechanical properties, morphology, etc. Since the generic polyethylene polymer can have a wide range of physical and chemical characteristics and some of the combinations of characteristics may not be suitable for ossicular replacement applications, the Panel believes that long-term safety and effectiveness data on clearly defined physical and chemical characterized porous polyethylene material(s) in ossicular replacement applications are needed to justify a recommendation less stringent than class III (premarket approval). The Panel recommends that porous polyethylene partial ossicular replacement prostheses be classified into class III because the Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would not provide reasonable assurance of the safety and effectiveness of the device and that there is insufficient information to establish a standard. The device, therefore, should be subject to premarket approval to ensure that manufacturers demonstrate satisfactory performance of the device and thus ensure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on six presentations made before the panel on this device, its review of the medical literature, and on the Panel members' personal knowledge of, and clinical experience with, this device. The Panel received two presentations on porous polyethylene at its June 22, 1978 Panel

meeting. The first presentation by J. Shea, M.D., Shea Clinic, G. D. L. Smyth, M.D., Belfast University Medical School, and B. Sauer, D.V.M., University of Mississippi Medical School, discussed the safety and effectiveness of porous polyethylene when used as an implant in the ear, nose, and throat area (Refs. *24* and *25*). The second presentation by E. B. Kern, M.D. and H. G. Neel III, M.D., Mayo Clinic, discussed research conducted at the Mayo Clinic involving implantation of materials, which included porous polyethylene, in rabbits. The Panel received two presentations on this device at its November 6, 1978 Panel meeting. The first presentation by R. Deanin, Sc.D., Lowell University, reviewed the chemistry of porous polyethylene, noting the different manufacturing processes. The second presentation by R. Rose, Sc.D., Massachusetts Institute of Technology, discussed the physical characteristics of different types of polyethylene implants. The Panel received two presentations on this device at its March 19, 1979 meeting. The first presentation by L. Ziemlak, Ph.D., American Hoechst Corp., presented data on the characterization of ultra-high molecular weight polyethylene and related manufacturing controls. The second presentation by J. Ferri, President, General Polymeric Corp., reviewed the manufacturing controls that are placed upon ultra-high molecular weight polyethylene resin after his company receives the material in powder form for further processing into a molded form.

5. Risks to health: (a) Adverse tissue reaction: The use of materials in this device that are not biologically or mechanically compatible with the body may cause an adverse tissue reaction with possible migration and extrusion of the implant. (b) Infection: If the device materials are not properly sterilized or are contaminated by microorganisms associated with foreign particles that are electrostatically attracted to the device materials, an infection could result.

FDA agrees with the Panel recommendation and is proposing that porous polyethylene partial ossicular replacement prostheses be classified into class III (premarket approval). The porous polyethylene partial ossicular replacement prosthesis is intended to be implanted in the human body. The Federal Food, Drug, and Cosmetic Act requires the agency to classify an implant into class III unless it determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case the agency has determined that premarket approval is necessary. In addition, FDA believes that the device is purported or represented to be for a use (reconstructive surgery) that is of substantial importance in preventing impairment of human health and that the device presents a potential unreasonable risk of illness or injury to the patient. The agency believes that general controls or performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

Section 874.3495; Docket No. 78N-1578; Total ossicular replacement prosthesis.

The Ear, Nose, and Throat Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of total ossicular replacement prostheses:

1. Identification: A total ossicular replacement prosthesis is an implanted device that is intended for use in the total reconstruction of the ossicular chain and that facilitates the conduction of sound waves to the inner ear. The device is made of materials such as polytetrafluoroethylene or polytetrafluoroethylene with vitreous carbon fibers composite. Porous polyethylene is not used in the device.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that total ossicular replacement prosthesis be classified into class II (performance standards) because the properties of the materials used in the device need to be controlled to prevent an adverse tissue reaction or injury to the patient. The Panel recommends that labeling of the device include a sketch that indicates geometric specifications as determined by the manufacturer. Because these devices are manufactured from porous materials, the labeling should indicate that these devices should be handled aseptically to avoid contamination. The Panel believes that general controls would not provide sufficient control over these characteristics. Although this device is an implant, the Panel does not believe that premarket approval is necessary to assure its safety and effectiveness. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device, and on reports in the medical literature of studies of John Shea, M.D., et al. (Refs. *21* and *22*). These reports describe the use of a total ossicular replacement prosthesis that consisted of two round discs made of polytetrafluoroethylene with vitreous carbon fibers composite fixed to a polytetrafluoroethylene columella. The studies reported on the use of 23 of these prostheses and found that none were extruded. The reports further noted that there was an average hearing acuity increase of 20 decibels for the three speech frequencies with closure of the airborne gap to within 17 decibels with the total ossicular replacement prosthesis.

5. Risks to health: (a) Infection: If the device materials are not properly sterlized or are contaminated by microorganisms associated with foreign particles that are electrostatically attracted to the device materials, an infection could result. (b) Adverse tissue reaction: The use of materials in this device that are not biologically or mechanically compatible with the body may cause an adverse tissue reaction with possible migration and extrusion of the implant.

FDA agrees with Panel recommendation and is proposing that total ossicular replacement prostheses be classified into class II (performance standards). Although the device is an implant, the agency believes that premarket approval is not necessary because of the well-documented clinical usage of total ossicular replacement prostheses and because there is sufficient information to establish a performance standard that would provide reasonable assurance of the safety and effectiveness of the device. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device.

FDA has reviewed the pertinent clinical literature on total ossicular replacement prostheses (Refs. *21* through *23*). Shea et al. reported that, while there have been problems involving the contact point between the prosthesis and the tympanic membrane due to displacement of the device or protrusion of the device through the tympanic membrane, the device made of polyetrafluoroethylene and

polytetrafluoroethylene with vitreous carbon fibers composite worked quite well. The authors cited a series of 23 operations wherein a polytetrafluoroethylene columella was fabricated with discs of polytetrafluoroethylene/vitreous carbon fibers composite located at each end of the prosthesis. Postoperative evaluation after 12 months revealed no extrusion of the prosthesis and no complications with the total ossicular replacement used in this manner. An overall average increase in patients' hearing acuity of 20 decibels was reported for the three speech frequencies. The increase in patients hearing acuity following implantation of the device demonstrates the efficacy of the device.

Tabor (Ref. *23*) evaluated 23 cases treated with the implantation of a polytetrafluoroethylene prosthesis for reconstruction of the ossicular chain. After 2 to 12 months of followup, air-conduction levels for the speed frequencies were 11 decibels higher than the preoperative levels in 85–95 percent of the cases. Post-operative physical findings revealed no patient with a postoperative perforation, and no serious complications were reported.

Section 874.3510; Docket No. 78N–1639; Porous polyethylene total ossicular replacement prosthesis.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of porous polyethylene total ossicular replacement prostheses:

1. Identification: A porous polyethylene total ossicular replacement prosthesis is an implanted device intended for the functional reconstruction of the ossicular chain including the malleus and that facilitates the conduction of sound waves from the tympanic membrane to the inner ear. The device is made of porous polyethylene alone or porous polyethylene with other materials.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that porous polyethylene total ossicular replacement prostheses be classified into class III because this device is implanted in the human body and the Panel believes that premarket approval is necessary to provide reasonable assurance of its safety and effectiveness. The Panel noted that literature on the clinical use of porous polyethylene total ossicular replacement prostheses (Refs. *24* and *25*) does not identify the polyethylene material used in terms of its physical and chemical characteristics such as molecular weight range, additives, catalysts, mechanical properties, morphology, etc. Because the generic polyethylene polymer can have a wide range of physical and chemical characteristics and some of the combinations of characteristics may not be suitable for total ossicular replacement prosthesis applications, the Panel believes that long-term safety and effectiveness data on clearly defined porous polyethylene material(s) in total ossicular replacement prosthesis applications are needed to justify a recommendation less stringent than class III (premarket approval. The Panel recommends that porous polyethylene total ossicular replacement prostheses be classified into class III because the Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard will not provide reasonable assurance of the safety and effectiveness of the device and that there is not sufficient information to establish a standard. The device, therefore, should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on six presentations made before the Panel on this device, their review of the medical literature, and on the Panel members' personal knowledge of, and clinical experience with, this device. The Panel received two presentations on this device at its June 22, 1978 Panel meeting. The first presentation by J. Shea, M.D., Shea Clinic, G. D. L. Smyth, M.D., Belfast University Medical School, and B. Sauer, D.V.M., University of Mississippi Medical School, discussed the safety and effectiveness of porous polyethylene when used as an implant in the ear, nose, and throat area (Refs. *24* and *25*). The second presentation by E. B. Kern, M.D., and H. G. Nell III, M.D., Mayo Clinic, discussed research conducted at the Mayo Clinic involving implantation of materials, which included porous polyethylene, in rabbits. The Panel received two presentations on this device at its November 6, 1978 Panel meeting. The first presentation by R. Deanin, Sc.D., Lowell University, reviewed the chemistry of porous polyethylene, noting the different manufacturing processes. The second presentation by R. Rose, Sc.D., Massachusetts Institute of Technology, discussed the physical characteristics of different types of polyethylene implants. The Panel received two presentations on this device at its March 19, 1979 Panel meeting. The first presentation by L. Ziemlak, Ph.D., American Hoechst Corp., presented data on the characterization of ultra-high molecular weight polyethylene and related manufacturing controls. The second presentation, by J. Ferri, President, General Polymeric Corp., reviewed the manufacturing controls that are placed upon ultra-high molecular weight polyethylene resin after his company receives the material in powder form for further processing into a molded form.

5. Risks to health: (a) Infection: If the device materials are not properly sterilized or are contaminated by microorganisms associated with foreign particles that are electrostatically attracted to the device materials, an infection could result. (b) Adverse tissue reaction: The use of materials in this device that are not biologically or mechanically compatible with the body may cause an adverse tissue reaction with possible migration and extrusion of the implant.

FDA agrees with the Panel recommendation and is proposing that porous polyethylene total ossicular replacement prostheses be classified into class III (premarket approval). The porous polyethylene total ossicular replacement prosthesis is intended to be implanted in the human body. The Federal Food, Drug, and Cosmetic Act requires the agency to classify an implant into class III unless it determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case, the agency has determined that premarket approval is necessary for this device. The agency believes that the device is purported or represented to be for a use (reconstructive surgery) that is of substantial importance in preventing impairment of human health and that the device presents a potential unreasonable risk of illness or injury to the patient. The agency believes that general controls or performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

§ 874.3540; Docket No. 78N–1579; Prosthesis modification instrument for ossicular replacement surgery.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of prosthesis modification

instruments for ossicular replacement surgery:

1. Identification: A prosthesis modification instrument for ossicular replacement surgery is a device intended for use by a surgeon to construct ossicular replacements. This generic type of device includes the ear, nose, and throat cutting block; wire crimper; wire bending die; wire closure forceps; piston cutting jib; gelfoam punch; wire cutting scissors; and ossicular finger vise.

2. Recommended classification: Class I (general controls). The Panel recommends that the device be exempt from premarket notification requirements under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)).

3. Summary of reasons for recommendation: The Panel recommends that these devices be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices. The Panel believes that they are simple devices that present no unreasonable risks to health. The Panel recommends that these devices be exempt from the requirements of section 510(k) of the act, premarket notification, because the Panel believes that there would be reasonable assurance that any substantially equivalent device or modification of the device would be safe and effective.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that prosthesis modification instruments for ossicular replacement surgery be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices. The agency disagrees with the Panel recommendation that manufacturers of prosthesis modification instruments for ossicular replacement surgery be exempt from premarket notification under section 510(k) of the act. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510(k) only upon a finding that compliance with section 510(k) is not necessary for the protection of the public health. In the case of prosthesis modification instruments for ossicular replacement surgery, the agency cannot make the required finding. Premarket notification by manufacturers of these devices assures that FDA learns of new products, and of significant modifications of existing products, for which premarket approval is required.

However, FDA is proposing that manufacturers of these devices who do not label or otherwise represent them as sterile be exempt, in the manufacture of the devices, from all requirements in the GMP regulation except § 820.180 (21 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the devices and user experience with the devices, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the devices. The agency believes, however, that manufacturers of prosthesis modification instruments for ossicular replacement surgery, even when they are not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of prosthesis modification instruments for ossicular replacement surgery must still be required to comply with the general requirement concerning records to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of a prosthesis modification instrument for ossicular replacement surgery that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety.

Section 874.3620; Docket No. 78N-1583; Ear, nose, and throat polyamide mesh or foil synthetic polymer material.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ear, nose, and throat polyamide mesh or foil synthetic polymer materials:

1. Identification: Ear, nose, and throat polyamide mesh or foil synthetic polymer material is an implanted material that is intended for use as a space-occupying substance in the reconstructive surgery of the head and neck. The device is used, for example, in augmentation rhinoplasty and in tissue defect closures in the esophagus. The device is shaped and formed by the surgeon to conform to the patient's needs. This generic type of device does not contain porous polyethylene material.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that ear, nose, and throat polyamide mesh or foil synthetic polymer material be classified into class II (performance standards) because the properties of the material, including its ability to be sterilized, need to be controlled to prevent injury to the patient and the biocompatibility properties need to be controlled to prevent an adverse tissue reaction. The Panel believes that general controls would not provide sufficient control over these characteristics. Although this device is an implant, the Panel does not believe that premarket approval is necessary to assure its safety and effectiveness. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel received a presentation at its January 27, 1978 Panel meeting by Lee Dreps, S. Jackson Company which addressed the safety and effectiveness of ear, nose, and throat polyamide mesh and foil synthetic polymer material. Dr. Dreps reviewed a study of 30 patients conducted by G. J. Beekhuis, M.D. The study concluded that polyamide implants have been well-tolerated by the human hosts and that polyamide is a valuable augmenting material in the treatment of saddle nose deformity (Ref. *26*). The Panel based its recommendation on its review of Dr. Beekhuis' report (Ref. *26*), the presentation by Mr. Dreps, and the Panel members' personal knowledge of, and clinical experience with, this device.

5. Risks to health: (a) Adverse tissue reaction: The use of materials in this device that are not biologically or mechanically compatible with the body may cause an adverse tissue reaction with possible migration and extrusion of the implant. (b) Infection: If the device materials are not properly sterilized, an infection could result.

FDA agrees with the Panel recommendation and is proposing that ear, nose, and throat polyamide mesh or foil synthetic polymer materials be classified into class II (performance standards). Although the device is an implant, the agency believes that premarket approval is not necessary because of the extensive clinical usage of this device over a long period of time and because there is sufficient information to establish a performance standard that would provide reasonable assurance of the safety and effectiveness of the device. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device.

FDA has reviewed representative clinical literature on ear, nose, and throat polyamide mesh or foil synthetic polymer materials (Refs. *26* through *29*). The agency notes that these materials have been widely used for over a decade in nasal and facial cosmetic surgery and have been well-tolerated in the human body, displaying little or no foreign body reaction or rejection. Beekhuis (Ref. *26*) in 1974 reported favorable results in the use of polyamide mesh in 30 patients over a four-year period. In all cases, the polyamide mesh implants were well-tolerated, with no foreign body reaction and no rejections, although three of the implants had underlying infections which necessitated the removal of two of them. Beekhuis (Ref. *27*), in another paper published in 1974, reported on the use of polyamide mesh in conjunction with polyamide foil to create an increase in nasal tip projection in 70 patients with saddle-nose deformity. In 67 (96 percent) of these patients, the implants were well-tolerated with no long-term or delayed complications and very good cosmetic results. Three patients suffered complications from postoperative infections not related to the actual implant. Stucker (Ref. *28*) reported on 164 cases over a period of four years in which he used polyamide mesh to augment the nasal dorsum, for mentoplasty augmentation, and for implantation of under-developed maxilla. Of these patients, only three experienced rejection (2 percent). The cosmetic results in this series of implantations were excellent. Beekhuis (Ref. *29*) reported on the use of rolled implants of polyamide mesh for augmentation mentoplasty in 100 patients. No clinical signs of host rejection or postoperative displacement or extrusion occurred in any of the patients.

Section 874.3630; Docket No. 78N-1584; Ear, nose, and throat porous polyethylene synthetic polymer material.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ear, nose, and throat porous polyethylene synthetic polymer material:

1. Identification: Ear, nose, and throat porous polyethylene synthetic polymer material is a porous polyethylene material that is intended to be formed by a surgeon into an implant used as a space-occupying substance and as a tissue-inviting replacement for diseased bone or tissue voids in areas of the ear, nose, and throat.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that ear, nose, and throat porous polyethylene synthetic polymer material be classified into class III because this material is implanted in the human body and the Panel believes that insufficient data currently exist to provide reasonable assurance of its safety and effectiveness. The Panel notes that literature on clinical use of porous polyethylene material (Refs. *30* and *31*) does not identify the material used in terms of its physical and chemical characteristics such as molecular weight range, additives, catalysts, mechanical properties, morphology, etc. Since the generic polyethylene polymer can have a wide range of physical and chemical characteristics and some of the combinations of characteristics may not be suitable for ear, nose, and throat applications, the Panel believes that long-term safety and effectiveness data on well-characterized porous polyethylene materials in ear, nose, and throat applications are needed to justify a recommendation less stringent than class III (premarket approval). The Panel also notes that the porous nature of this material may allow for the communication of infection from one body cavity to the next. The Panel notes that if this material does not have sufficient biological or mechanical compatibility, it may cause an adverse tissue reaction. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel also believes that a performance standard would not provide reasonable assurance of the safety and effectiveness of the device and that there is not sufficient information to establish a standard. Therefore, the device should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on six presentations made before the panel on porous polyethylene, its review of the medical literature, and on the Panel members' personal knowledge of, and clinical experience with, this device. The Panel received two presentations on this device at its June 22, 1978 Panel meeting. The first presentation by J. Shea, M.D., Shea Clinic, G. D. L. Smyth, M.D., Belfast University Medical School, and B. Sauer, D.V.M., University of Mississippi Medical School, discussed the safety and effectiveness of porous polyethylene when used as an implant in the ear, nose, and throat area (Refs. *30* and *31*). The second presentation by E. B. Kern, M.D., and H. G. Neel III, M.D., Mayo Clinic, discussed research conducted at the Mayo Clinic involving implantation of materials, which included porous polyethylene, in rabbits. The Panel received two presentations on this device at its November 6, 1978 Panel meeting. The first presentation by R. Deanin, Sc.D., Lowell University, reviewed the chemistry of porous polyethylene, noting the different manufacturing processes. The second presentation by R. Rose, Sc.D., Massachusetts Institute of Technology, discussed the physical characteristics of different types of polyethylene implants. The Panel received two presentations on this device at its March 19, 1979 Panel meeting. The first presentation by L. Ziemlak, Ph.D., American Hoechst Corp., presented data on the characterization of ultra-high molecular weight polyethylene and related manufacturing controls. The second presentation by J. Ferri, President, General Polymeric Corp., reviewed the manufacturing controls that are placed upon ultra-high molecular weight polyethylene resin after his company receives the material in powder form for further processing into a molded form.

5. Risks to health: (a) Infection: If the device materials are not properly sterilized or are contaminated by microorganisms associated with foreign particles that are electrostatically attracted to the device materials, an infection could result. (b) Adverse tissue reaction: The use of materials in this device that are not biologically or mechanically compatible with the body may cause an adverse reaction and

possible migration and extrusion of the implant.

FDA agrees with the Panel recommendation and is proposing that ear, nose, and throat porous polyethylene synthetic polymer material be classified into class III (premarket approval). The device is intended to be implanted in the human body. The Federal Food, Drug, and Cosmetic Act requires the agency to classify an implant into class III unless the agency determines that premarket approval is not necessary to provide reasonable assurance of the device's safety and effectiveness. The agency has determined that premarket approval is necessary for ear, nose, and throat porous polyethylene synthetic polymer material. The agency believes that the device is purported or represented to be for a use (reconstructive surgery) that is of substantial importance in preventing impairment of human health and that the device presents a potential unreasonable risk of illness or injury to the patient. The agency believes that general controls or performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

Section 876.3695; Docket No. 78N-1588; Mandibular implant facial prosthesis.

The Ear, Nose, and Throat Device Classification Panel and the General and Plastic Surgery Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of mandibular implant facial prostheses:

1. Identification: A mandibular implant facial prosthesis is an implanted device that is intended for use in the functional reconstruction of mandibular deficits. The device is made of materials such as stainless steel, tantalum, titanium, cobalt-chromium based alloy, polytetrafluoroethylene, silicone elastomer, polyethylene, polyurethane, or polytetrafluoroethylene with carbon fibers composite, but not porous polyethylene.

2. Recommended classification: Class II (performance standards). The Ear, Nose, and Throat Device Classification Panel recommends that establishing a performance standard for this device be a high priority. The General and Plastic Surgery Device Classification Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendations: The Panels recommend that mandibular implant facial prostheses be classified into class II (performance standards) because the Panel believes the device has an established history of safe and effective use. The Panels believe that use of materials in this device that are not biologically or mechanically compatible with the body, or that are contaminated by microorganisms, may cause an adverse tissue reaction or injury or illness in the patient. The Ear, Nose, and Throat Device Classification Panel also recommends that labeling of the device include a sketch that indicates geometric specifications as determined by the manufacturer (e.g., tube length, diameter, thickness of wall, thickness of flange, etc.). Both Panels believe that general controls alone would not provide sufficient control over these characteristics. Although this device is an implant, the Panels do not believe that premarket approval is necessary to assure its safety and effectiveness. The Panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, this device. The Ear, Nose, and Throat Device Classification Panel based its recommendation on a presentation at its December 14, 1976 meeting by S. Weisman (Howmedica, Inc.) and D. A. Corgill, M.D., who discussed the safety and efficacy of the facial prostheses including the mandibular implant facial prosthesis. Mr. Weisman reviewed the medical literature concerning facial prostheses over the past 20 years and provided evidence that the medical literature attests the biocompatibility and effective performance of this device. Dr. Corgill discussed the clinical data he had obtained over the past 18 years on facial prostheses.

5. Risks to health: The Ear, Nose, and Throat Device Classification Panel identified the following risks to health: (a) Infection: If the device materials are not properly sterilized or are contaminated by microoganisms associated with foreign particles that are electrostatically attracted to the device materials, an infection could result. (b) Adverse tissue reaction: The use of materials in this device that are not biologically or mechanically compatible with the body may cause an adverse tissue reaction with possible migration and extrusion of the implant. The General and Plastic Surgery Device Classification Panel identified the floowing risks to health: (a) Infection: The introduction of microbes associated with a nonsterile device may cause infection. (b) Skin necrosis, hematoma, capsule formation, displacement of the implant: If the implant is of improper size or shape, these complications may result.

FDA agrees with the recommendations of both the Ear, Nose, and Throat Device Classification Panel and the General and Plastic Surgery Device Classification Panel and is proposing that mandibular facial prostheses be classified into class II (performance standards). Although the device is an implant, the agency believes that premarket approval is not necessary because of the clinical usage of mandibular facial prostheses over a long period of time and because there is sufficient information to establish a performance standard that would provide reasonable assurance of safety and efficacy of the device. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device.

FDA has reviewed pertinent scientific and clinical literature on mandibular facial prostheses (Refs. *32* through *36*). Hahn and Corgill (Ref. *32*) reported on the safety and efficacy of cobalt-chrome mesh mandibular prostheses. It was noted that this implant design was first introduced in 1960. In their study, 45 prostheses were implanted between 1960 and 1967. Forty of these implants 89 percent) were successful and provided functional results in patients ranging in age from 26 to 79. It was noted that the movement of tissue over a prosthesis constitutes a chief cause of extrusion. The authors reported that with mesh construction of the prosthesis, this problem was eliminated because surrounding tissues invade the interstices of the prosthesis and hold the prosthesis in place.

Byrd and Holton (Ref. *34*) reported on a case involving replacement of the mandible on a 53-year-old woman in which a stainless steel mesh prosthesis was used. The prosthesis proved successful, providing esthetic and functional reconstruction.

Brown, et al. (Ref. *34*) reported on the use of silicone elastomer and polytetrafluoroethylene prostheses for mandibular replacement. Substitution for a totally absent jaw was made with a bar of polytetrafluoroethylene annealed into the proper curve and implanted through the front of the neck. After four years, the implant remained

in place with the addition of a functioning dental prosthesis. Silicone elastomer was used to provide reconstruction of contour resulting from trauma to the face. It has been used successfully to rebuild the chin while preserving both motor and sensory nerves. Postoperative followup after 2½ years indicated good restoration.

Habal and Chalian (Ref. *35*) reported successful results in 30 patients with pre-fabricated silicone elastomer mandibular implants. Success was defined in terms of: (a) return of the patient to his or her preoperative functional activity; (b) cessation of incapacitating effects; (c) stabilization of the mandibular segment; and (d) restoration of the normal contour of the face. The success rate under these criteria was determined to be approximately 85 percent. Implants that were found to be the most successful were ones placed in patients who exhibited the presence of adequate soft tissue coverage.

Homsy and Kent (Ref. *36*) reported on the use of polytetrafluoroethylene with vitreous carbon for application in mandibular surgery. Good results were obtained when this composite implant was used for ridge augmentation, temporomandibular joint repair, and as a segmental prosthesis.

Section 874.3730; Docket No. 78N–1589; Laryngeal prosthesis (Taub design).

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of laryngeal prostheses (Taub design):

1. Identification: A laryngeal prosthesis (Taub design) is a device orally inserted and removed each day and intended to direct pulmonary air flow to the pharynx in the absense of the larynx. The device is interposed between openings in the trachea and the esophagus. During phonation, air from the lungs is directed to flow through the device and over the esophageal mucosa to provide a sound source that is articulated as speech.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that laryngeal prostheses (Taub design) be classified into class II (performance standards) because the use of materials in this device that are not biologically or mechanically compatible with the body, or an improper design, may cause an adverse tissue reaction or injury or illness to the patient. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Adverse tissue reaction: The use of materials in this device that are not biologically or mechanically compatible with the body, or an improper design of the device which causes pressure to be exerted against body tissue, may cause an adverse tissue reaction.

FDA agrees with the Panel recommendation and is proposing that laryngeal prostheses (Taub design) be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.3760; Docket No. 78N–1591; Sacculotomy tack (Cody tack).

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of sacculotomy tacks (Cody tacks):

1. Identification: A sacculotomy tack (Cody tack) is an implanted device that consists of a pointed metal tack which repetitively ruptures the utricular membrane as the membrane expands under increased endolymphatic pressure and is intended to relieve the symptoms of vertigo. The device is made of stainless steel.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that sacculotomy tacks (Cody tacks) be classified into class II (performance standards) because the Panel believes that the device has an established history of safe and effective use. The Panel believes that the materials used in the device need to be controlled to prevent injury to the patient. The Panel believes that general controls alone would not provide sufficient control over these characteristics. Although this device is an implant the Panel does not believe that premarket approval is necessary to assure its safety and effectiveness. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device. The Panel also cited the medical literature concerning this device by D. Thane R. Cody, M.D., (Refs. *37* and *38*) and a presentation by G. D. L. Smyth, M.D., at the January 22, 1977, Panel meeting. In his presentation, Dr. Smyth summarized his clinical experience with the sacculotomy tack (Cody tack).

5. Risks to health: (a) Hearing loss: Inner ear trauma caused by the puncture of the endolymphatic system may cause hearing loss. (b) Tissue trauma: If the device is corroded or fractures during use due to inferior material, the resultant rough surfaces may cause lacerations of body tissue and necessitate emergency procedures for extraction.

FDA agrees with the Panel recommendation and is proposing that sacculotomy tacks (Cody tacks) be classified into class II (performance standards). Although the device is an implant, the agency believes that premarket approval is not necessary because of the extensive clinical usage of sacculotomy tacks over a long period of time and because there is sufficient information to establish a performance standard that would provide reasonable assurance of the safety and effectiveness of the device. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device.

FDA has reviewed representative clinical literature on sacculotomy tacks. The agency notes that the literature reviewed concerned 321 patients with Meniere's disease in which vertigo was relieved in approximately 85 percent of the cases, hearing was either improved or conserved in approximately 70 percent of the cases, and tinnitus was relieved in approximately 47 percent of the cases by the implantation of the sacculotomy tack. It should be noted that these results were obtained on

medical failure patients. Complications associated with the implantation of the sacculotomy tack include: further loss of hearing, reported in approximately 22 percent of the cases; and, worsening of tinnitus, reported in approximately 2 percent of the cases (Refs. 39 through 43).

Cody (Ref. *39*) implanted sacculotomy tacks in 140 patients who had endolymphatic hydrops. After 52 to 67 months of followup, vertigo was reported to be controlled in 82 percent of the patients. Significant hearing improvement (at least 20 decibels (dB) or 20 percent), as indicated by air- and bone-conduction pure-tone audiograms, speech-reception thresholds, and speech-discrimination scores, was reported in 16 percent of the cases, with tinnitus relieved in 47 percent. A further loss of hearing was the most frequent complaint, occurring in 24 percent of patients, with 2 percent of patients having a worsening of tinnitus after surgery.

Cody (Ref. *40*) reported the results of the sacculotomy tack operation in 91 patients after a followup of 1 and ½ years to 3 years 8 months. Vertigo was controlled in 88 percent of the patients, and, after a revision tack operation, was controlled in an additional 5 percent. The speech-discrimination score was improved by 20 percent or more in 20 percent of the patients, and was made worse by the same magnitude in 21 percent of the patients. Pure-tone threshold or speech-reception threshold or both were improved by 20 dB or more in 18 percent of the patients and were made worse by 20 dB or more in 12 percent of the patients. Shea et al. (Ref. *41*) implanted sacculotomy tacks in 20 patients who had endolymphatic hydrops. Vertigo was controlled in 80 percent of the patients, and remained unchanged in the rest. Hearing improved significantly in 10 percent of the patients and hearing was significantly decreased in 20 percent. Tinnitus was relieved in 50 percent of the patients and worsened in 10 percent. Cody (Ref. *42*) presented the results of the sacculotomy tack operation in 57 patients with endolymphatic hydrops. Hearing was improved by 20 dB or more in 18 percent of the patients and made worse by the same magnitude in 13 percent. Vertigo was relieved in 54 patients (95 percent), with tinnitus relieved in 23 patients (42 percent). Burgert et al. (Ref. *43*) reported on 13 patients with severe unilateral Meniere's disease which were treated with the sacculotomy tack procedure and followed for 1 to 3 years postoperatively. Vertigo was significantly relieved in 12 patients (92 percent), hearing was unchanged in 50 percent and made worse by 20 dB or more in 50 percent. Tinnitus was relieved in 62 percent of the patients.

Section 874.3820; Docket No. 78N–1593; Endolymphatic shunt tube.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of endolymphatic shunt tubes:

1. Identification: An endolymphatic shunt tube is an implanted device that consists of a tube which permits excess endolymph from the distended end of the endolymphatic system to flow into the mastoid cavity where resorption occurs and is intended to relieve the symptoms of vertigo. The device is made of polytetrafluoroethylene or silicone elastomer.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that endolymphatic shunt tubes be classified into class II (performance standards) because the Panel believes the device has an established history of safe and effective use. The Panel believes that the use of materials in this device that are not biologically or mechanically compatible with the body, or that are contaminated by microorganisms, may cause an adverse tissue reaction or injury or illness in the patient. The Panel recommended that the labeling of the device should include a sketch that indicates geometric specifications as determined by the manufacturer. The Panel believes that general controls alone would not provide sufficient control over these characteristics. Although this device is an implant, the Panel does not believe that premarket approval is necessary to assure its safety and effectiveness. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: the Panel based its recommendation on the Panel members' personal knowledge of, and clincial experience with, this device, and on their review of the medical literature (Refs. *44, 45,* and *46*).

5. Risks to health: (a) Infection: If the device materials are not properly sterilized or are contaminated by microorganisms associated with foreign particles that are electrostatically attracted to the device materials, an infection could result. (b) Adverse tissue reaction: The use of materials in this device that are not biologically or mechanically compatible with the body may cause an adverse tissue reaction with possible migration and extrusion of the implant.

FDA agrees with the Panel recommendation and is proposing that endolymphatic shunt tubes be classified into class II (performance standards). Although the device is an implant, the agency believes that premarket approval is not necessary because of the extensive clincial usage of endolymphatic shunt tubes over a long period of time and because there is sufficient information to establish a performance standard that would provide reasonable assurance of the safety and effectiveness of the device. The agency believes that a performance standard is necessary for this device because general contols alone are insufficient to control the risks to health presented by the device.

FDA has reviewed representative clincial literature on endolymphatic shunt tubes. The agency notes that the literature reviewed concerned 329 patients with Meniere's disease in which vertigo was relieved in approximately 73 percent of the cases, hearing was either improved or conserved in approximately 69 percent of the cases, and tinnitus was relieved in approximately 44 percent of the cases by the implantation of the endolymphatic shunt tube. It should be noted that these results were obtained on medical failure patients. Complications associated with the implantation of the endolymphatic shunt tube include: further loss of hearing, reported in approximately 18 percent of the cases; and, worsening of tinnitus, reported in approximately 8 percent of the cases (Refs. *47* through *50*).

House et al., (Ref. *47*) reported the long-term results of endolymphatic shunt tube implantation in 172 patients with unilateral Meniere's disease. Vertigo was controlled in 106 patients (62 percent), with 22 percent of the successful cases reporting an improvement in hearing, and 14 percent reporting a long-term worsening of hearing. Tinnitus was relieved in 61 percent of the successful cases, and made worse in 2 percent of the successful cases. Paparella et al., (Ref. *48*) presented the results of endolymphatic shunt tube implantation in 43 ears. Vertigo was controlled in 94 percent of the patients, with a significant improvement in hearing observed in over 30 percent of the

patients. Morrison (Ref. *49*) implanted endolymphatic shunt tubes in 87 patients. After 1 to 4½ years of followup, 96 percent of the patients with unilateral endolymphatic hydrops obtained relief from vertigo. Of the patients who have had bilateral operations, relief from vertigo has been obtained in 90 percent of the cases. Of the patients with bilateral disease that have had unilateral operations, vertigo has been relieved in only 44 percent of the cases. An improvment in hearing has been reported in 69 percent of the patients, with tinnitus relieved in 64 percent of the ears. Tinnitus was made worse in 3 percent of the ears. Arenberg et al., (Ref. *50*) reported the results of endolymphatic shunt tube implantation in 35 patients. Vertigo was relieved in 69 percent of the patients, hearing was significantly improved in 46 percent of the patients, and tinnitus was relieved in 29 percent of the patients. The authors note, however, that when the results of surgery early in the course of the disease (as indicated by a positive glycerol test) are analyzed alone, vertigo is controlled in 89 percent of the patients, hearing is significantly improved in 59 percent of the patients, and tinnitus is relieved in 37 percent of the patients.

Section 874.3850; Docket No. 78N–1594; Endolymphatic shunt tube with valve.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of endolymphatic shunt tubes with valves:

1. Identification: An endolymphatic shunt tube with valve is an implanted device that consists of a unidirectional inner ear valve associated with a tube to direct excess endolymph from the distended end of the endolymphatic system into the mastoid cavity where resorption occurs and that is intended to relieve the symptoms of vertigo. The device is made of silicone elastomer and polyamide and contains gold radiopaque markers within the silicone elastomer sheath.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: the Panel recommends that endolymphatic shunt tubes with valves be classified into class III because the device is an implant and the Panel believes that premarket approval is necessary to provide reasonable assurance of its safety and effectiveness. The Panel also believes that the device presents a potential unreasonable risk of injury because trauma to the inner ear may result if the valve clogs, causing the device to become inoperative. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would not provide reasonable assurance of the safety and effectiveness of the device and that there is not sufficient information to establish a standard. Therefore, the device should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on a presentation to the Panel on January 27, 1978, by John Newkirk, D.Sc., Denver Surgical Instruments. Dr. Newkirk reviewed the history and the mechanical and design parameters of this device.

5. Risks to health: Trauma to inner ear: An inoperative or clogged valve may cause the device to damage the structures of the inner ear.

FDA agrees with the Panel recommendation and is proposing that endolymphatic shunt tubes with valves be classified into class III (premarket approval). The device is intended to be implanted in the human body. The Federal Food, Drug, and Cosmetic Act requires the agency to classify an implant into class III unless it determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case the agency has determined that premarket approval is necessary for this device. FDA believes that the device presents a potential unreasonable risk of illness or injury to the patient if there are not adequate data to assure the safe and effective use of the device. In addition, the device is purported or represented to be for a use (relief of symptoms of vertigo) that is of substantial importance in preventing impairment of human health. The agency believes that general controls or performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

Section 874.3880; Docket No. 78N–1595; Tympanostomy tube.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of tympanostomy tubes:

1. Identification: A tympanostomy tube is an implanted device that is intended for ventilation or drainage of the middle ear. The device is inserted through the tympanic membrane to permit a free exchange of air between the outer ear and middle ear. A type of tympanostomy tube known as the malleous clip tube attaches to the malleous to provide ear ventilation. The device is made of materials such as polytetrafluoroethylene, polyethylene, or silicone elastomer, but tympanostomy tubes made of porous polyethylene are excluded.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that tympanostomy tubes be classified into class II (performance standards) because the Panel believes that the device has an established history of safe and effective use. The Panel believes that the use of materials in this device that are not biologically or mechanically compatible with the body, that are improperly designed, or that are contaminated by microorganisms may cause an adverse tissue reaction or injury or illness in the patient. The Panel recommends that labeling of the device include a sketch that indicates geometric specifications as determined by the manufacturer (e.g., tube length, diameter, thickness of wall, thickness of flange, etc.). The Panel believes that general controls alone would not provide sufficient control over these characteristics. Although this device is an implant, the Panel does not believe that premarket approval is necessary to assure its safety and effectiveness. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device, and the proceedings of the meeting on serious otitis media held in Columbus, Ohio, in 1975 and published in *The Annals of Otology, Rhinology and Laryngology* (Ref. *51*).

5. Risks to health: (a) Perforation: If the device's size, shape, or finish is inappropriate, the device may cause permanent perforation of the tympanic membrane. (b) Adverse tissue reaction: The use of materials in this device that

are not biologically or mechanically compatible with the body may cause and adverse tissue reaction with possible migration and extrusion of the implant. (c) Infection: If the device materials are not properly sterilized or are contaminated by microoganisms associated with foreign particles that are electrostatically attracted to the device materials, an infection could result. (d) Malleous erosion: A mechanically incompatible design of the malleous clip tube may result in erosion of the malleous.

FDA agrees with the Panel recommendation and is proposing that tympanostomy tubes be classified into class II (performance standards). Although the device is an implant, the agency believes that premarket approval is not necessary because of the extensive clinical usage of tympanostomy tubes over a long period of time and because there is sufficient information to establish a performance standard that would provide reasonable assurance of the safety and effectiveness of the device. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device.

FDA has reviewed pertinent clinical literature on tympanostomy tubes. The agency notes that this literature concerns 4,915 cases of tympanostomy tube implantation in which the authors report a minimal number of complications. Of the three potentially significant complications associated with the implantation of this device, permanent perforations of the tympanic membrane occurred in 45 cases (1 percent), persistent infections occurred in 75 cases (2 percent), and cholesteatoma occurred in 1 case (0.02 percent) (Refs. *51* through *54*).

Birch et al. (Ref. *51*) inserted tympanostomy tubes made of polytetrafluoroethylene in 736 patients, for a total of 2,327 operated ears, during a period of two years from 1972–1974. The most frequent complication was a draining ear following tube insertion, comprising 352 ears (15.1 percent). Of these 352 ears, 14 tympanostomy tubes (0.6 percent) had to be removed because of uncontrollable infection. Tympanic membrane perforation persisting for six months or longer was reported in 14 ears (0.6 percent). No instances of cholesteatoma were attributed to tube insertion. Hughes et al. (Ref. *52*) reviewed the complications of 838 tube tympanostomies that were performed from 1965 to 1967 at Duke University Medical Center and that had five to seven years of followup study. Purulent otitis media was reported in 30 cases (4 percent) and permanent perforations persisting for six months or longer occurred in 13 cases (2 percent). No instances of cholesteatoma were attributed to tube insertion. Kokko et al. (Ref. *53*) implanted tympanostomy tubes of either polyethylene or silicone elastomer in 181 patients (323 ears), and a followup study was made an average of three years and two months later. Purulent discharge occurred in 5 ears (2 percent), with a recurrence of mucoid otitis media present in an additional 9 (3 percent). Permanent tympanic membrane perforation was reported in 5 ears (2 percent), and only one instance of cholesteatoma was attributed to tube insertion (0.3 percent). Pappas (Ref. *54*) reported on his experience using tympanostomy tubes over five years in 1,460 ears. The tubes that were most commonly used in the study were made of polyethylene, silicone elastomer, and polytetrafluoroethylene with silicone elastomer. Permanent tympanic membrane perforations were reported in 13 ears (1 percent), with no instances of cholesteatoma attributed to tube insertion. Pappas stated that infections following tube insertion are uncommon if tubes are inserted under sterile conditions and the patient is careful to keep contaminants from getting into the middle ear through the tube.

The function of a tympanostomy tube is to provide ventilation for the middle ear in cases where the eustachian tube provides inadequate ventilation, because of blockage. The tympanostomy tube relieves the symptoms of a blocked eustachian tube, allows the middle ear to resume a normal appearance, and alleviates conductive hearing loss. As long as the tube remains in place and does not become occluded, it will effectively provide middle ear ventilation. Implanted ventilation tubes eventually extrude, with tubes of various configurations and materials having different rates of extrusion (Ref. *55*). When the tube extrudes, the ventilation through the eustachian tube may be sufficiently adequate to prevent reaccumulation of fluid in the middle ear.

Section 874.3910; Docket No. 78N–1641; Porous polyethylene tympanostomy tube.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of porous polyethylene tympanostomy tubes:

1. Identification: A porous polyethylene tympanostomy tube is an implanted device that is intended for ventilation or drainage of the middle ear. The device is inserted through the tympanic membrane to permit a free exchange of air between the outer ear and middle ear. The device is made of porous polyethylene alone or porous polyethylene with other materials.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that porous polyethylene tympanostomy tubes be classified into class III because this device is implanted in the human body and the Panel believes that premarket approval is necessary to provide reasonable assurance of its safety and effectiveness. The Panel notes from its knowledge of the literature on the clinical use of porous polyethylene (Refs. 56 and 57) that the literature does not identify the porous polyethylene material used in terms of its physical and chemical characteristics such as molecular weight range, additives, catalysts, mechanical properties, morphology, etc. Because the generic polyethylene polymer can have a wide range of physical and chemical characteristics and some of the combinations of characteristics may not be suitable for tympanostomy tube applications, the Panel believes that long-term safety and effectiveness data on clearly defined chemical and physical characterized porous polyethylene material(s) in tympanostomy tube applications are needed to justify a recommendation less stringent than class III (premarket approval). The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard will not provide reasonable assurance of the safety and effectiveness of the device and that there is not sufficient information to establish a standard. The device, therefore, should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness. The Panel recommended that labeling of the device include a sketch that indicates geometric specifications as determined by the manufacturer (e.g., tube length, diameter, thickness of wall, thickness of flange, etc.).

4. Summary of data on which the recommendation is based: The Panel based its recommendation on six presentations made before the Panel on

this device, its review of the medical literature, and on the Panel members' personal knowledge of, and clinical experience with, this device. The Panel received two presentations on porous polyethylene at its June 22, 1978 Panel meeting. The first presentation by J. Shea, M.D., Shea Clinic, G. D. L. Smyth, M.D., Belfast University Medical School, and B. Sauer, D.V.M., University of Mississippi Medical School, discussed the safety and effectiveness of porous polyethylene when used as an implant in the ear, nose, and throat area (Refs. *56* and *57*). The second presentation by E. B. Kern, M.D., and H. G. Neel III, M.D., Mayo Clinic, discussed research conducted at the Mayo Clinic involving implantation of materials, which included porous polyethylene, in rabbits. The Panel received two presentations on this device at its November 6, 1978 Panel meeting. The first presentation by R. Deanin, Sc.D., Lowell University, reviewed the chemistry of porous polyethylene, noting the different manufacturing processes. The second presentation by R. Rose, Sc.D., Massachusetts Institute of Technology, discussed the physical characteristics of different types of polyethylene implants. The Panel received two presentations on this device at its March 19, 1979 Panel meeting. The first presentation by L. Ziemlak, Ph. D., American Hoechst Corp., presented data on the characterization of ultra-high molecular weight polyethylene and related manufacturing controls. The second presentation, by J. Ferri, President, General Polymeric Corp., reviewed the manufacturing controls that are placed upon ultra-high molecular weight polyethylene resin after his company receives the material in powder form for further processing into a molded form.

5. Risks to health: (a) Perforation: If the device's size, shape, or finish is inappropriate, the device may cause a permanent perforation of the tympanic membrane. (b) Adverse tissue reaction: The use of materials in this device that are not biologically or mechanically compatible with the body may cause an adverse tissue reaction with possible migration and extrusion of the implant. (c) Infection: If the device materials are not properly sterilized or are contaminated by micro-orgamisms associated with foreign particles that are electrostatically attracted to the device materials, an infection could result.

FDA agrees with the Panel recommendation and is proposing that porous polyethylene tympanostomy tubes be classified into class III (premarket approval). The device is intended to be implanted in the human body. The Federal Food, Drug, and Cosmetic Act requires the agency to classify an implant into class III unless it determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case the agency has determined that premarket approval is necessary. In addition, FDA believes that the device is purported or represented to be for a use (ventilating the middle ear) that is of substantial importance is preventing impairment of human health and that the device presents a potential unreasonable risk of illness or injury to the patient. The agency believes that general controls or performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

Section 874.3930; Docket No. 78N–1596; Tympanostomy tube with semi-permeable membrane.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of tympanostomy tubes with semi-permeable membranes:

1. Identification: A tympanostomy tube with a semi-permeable membrane is an implanted device intended for ventilation or drainage of the middle ear and for preventing fluids from entering the middle ear cavity. The device is inserted through the tympanic membrane to permit a free exchange of air between the outer ear and middle ear. The tube portion of the device is made of silicone elastomer or porous polyethylene, and the membrane portion is made of polytetrafluoroethylene.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that tympanostomy tubes with semi-permeable membranes be classified into class III because this device is implanted in the human body and the Panel believes that premarket approval is necessary to provide reasonable assurance of the safety and effectiveness of this device. The Panel noted that blockage of the membrane pores may cause occlusion of the tube, which may result in hearing loss. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would not provide reasonable assurance of the safety and effectivenss of the device and that there is not sufficient information to establish a standard. The device, therefore, should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel received a presentation at its June 23, 1978 meeting by John B. Castelli, M.D., which addressed the safety and effectiveness of the tympanostomy tube with a semi-permeable membrane. Dr. Castelli noted that tympanostomy tubes with semi-permeable membranes that would meet the design criteria to ventilate the middle ear and at the same time protect the middle ear from fluid are not currently available. The Panel believes that this device has not had a sufficient period of clinical evaluation to justify a recommendation less stringent than class III.

5. Risks to health: (a) Perforation: If the device's size, shape, or finish is inappropriate, the device may cause a permanent perforation of the tympanic membrane. (b) Adverse tissue reaction: The use of materials in this device that are not biologically compatible with the body may cause an adverse tissue reaction with possible migration and extrusion of the implant. (c) Infection: If the device materials are unable to be properly sterilized or are contaminated by microorganisms associated with foreigh particles that are electrostatically attracted to the device materials, an infection could result. (d) Hearing loss: Blockage of the membrane pores of this device may result in hearing loss.

FDA agrees with the Panel recommendation and is proposing that the tympanostomy tubes with semi-permeable membranes be classified into class III (premarket approval). The device is intended to be implanted in the human body. The Federal Food, Drug, and Cosmetic Act requires the agency to classify an implant into class III unless it determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case the agency has determined that premarket approval is necessary. In addition, FDA believes that the device presents a potential unreasonable risk of illness or injury to the patient if there are not adequate data to assure the safe and effective use of the device. The device also is purported or represented to be for a use (ventilating the middle ear) that is of substantial importance in

preventing impairment of human health. The agency believes that general controls or performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

Section 874.4100; Docket No. 78N-1599; Epistaxis balloon.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of epistaxis balloons:

1. Identification: An epistaxis balloon is a device consisting of an inflatable balloon intended to control internal nasal bleeding by exerting pressure against the sphenopalatine artery.

2. Recommended classification: Class I (general controls). The Panel recommends that the device be exempt from premarket notification requirements under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)).

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that it is a simple device which presents no unreasonable risks to health. The Panel recommends that this device be exempt from the requirements of section 510(k) of the act, premarket notification, because the Panel believes that there would be reasonable assurance that any substantially equivalent device or modification to the device would be safe and effective.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that epistaxis balloons be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency disagrees with the Panel recommendation that manufacturers of epistaxis balloons be exempt from premarket notification under section 510(k) of the act. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510(k) only upon a finding that compliance with section 510(k) is not necessary for the protection of the public health. In the case of epistaxis balloons, the agency cannot make the required finding. Premarket notification by manufacturers of this device assures that FDA learns of new products, and of significant modifications of existing products, for which premarket approval is required.

Section 874.4140; Docket No. 78N-1601; Ear, nose, and throat bur.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ear, nose, and throat burs:

1. Identification: An ear, nose, and throat bur is a device consisting of an interchangeable drill bit that is intended for use in an ear, nose, and throat electric or pneumatic surgical drill (§ 874.4250) for incising or removing bone in the ear, nose, or throat area. The bur consists of a carbide cutting tip on a metal shank or a coating of diamond on a metal shank. The device is used in mastoid surgery, frontal sinus surgery, and surgery of the facial nerves.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that ear, nose, and throat burs be classified into class II (performance standards) because the physical properties and the properties of the materials used in the device need to be controlled to prevent injury to the patient. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Hearing damage: Excessive noise from the bur when drilling close to the cochlea or ossicular chain or vibration caused by the eccentricity of the bur may cause hearing damage. (b) Thermal injury: The use of a bur may cause an inordinate amount of heat buildup resulting in thermal injury to tissue. This heat buildup may be accentuated by eccentricity of the bur. (c) Tissue trauma: If this device is corroded or fractures during use due to inferior material, the resultant rough surfaces may cause lacerations of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction. (d) Tissue and bone destruction: Eccentricity of the bur may result in excess tissue and bone destruction.

FDA agrees with the Panel recommendation and is proposing that ear, nose, and throat burs be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.4175; Docket No. 78N-1602; Nasopharyngeal catheter.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nasopharyngeal catheters:

1. Identification: A nasopharyngeal catheter is a device consisting of a bougie or filiform catheter that is intended for use in probing or dilating the eustachian tube. This generic type of device includes eustachian catheters.

2. Recommended classification: Class I (general controls). The Panel recommends that the device be exempt from premarket notification requirements under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)).

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that it is a simple device which presents no unreasonable risks to health. The Panel recommends that this device be exempt from the requirements of section 510(k) of the act, premarket notification, because the Panel believes that there would be reasonable assurance that any substantially equivalent device or modification of the device would be reasonably safe and effective.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that nasopharyngeal catheters be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency disagrees with the Panel recommendation that manufacturers of nasopharyngeal catheters be exempt from premarket notification under section 510(k) of the act. Under section 510(g)(4), the agency may exempt a manufacturer from section 510(k) only upon a finding that compliance with section 510(k) is not necessary for the protection of the public health. In the case of the nasopharyngeal catheter, the agency cannot make the required finding. Premarket notification by manufacturers of this device assures that FDA learns of new products, and of significant modifications of existing products, for which premarket approval is required.

Section 874.4250; Docket No. 78N-1604; Ear, nose, and throat electric or pneumatic surgical drill.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ear, nose, and throat electric or pneumatic surgical drills:

1. Identification: An ear, nose, and throat electric or pneumatic surgical drill is a rotating drilling device, including the handpiece, that is intended to drive an ear, nose, and throat bur (§ 874.4140) for the controlled incision or removal of bone in the ear, nose, and throat area.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that ear, nose, and throat electric or pneumatic surgical drills be classified into class II (performance standards) because the design of the device must be controlled to prevent mechanical or noise trauma, electrical shock, or an explosion when used in the presence of flammable gases. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard. The Panel recommends that labeling of the device indicate the range of revolutions per minute, the amount of torque generated both at the cutting edge and at the control end of the instrument, and that instructions be provided for the proper care and sterilization of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Mechanical trauma: Whip or wobble in the device may result in trauma to tissue. (b) Noise trauma: Excessive noise generated by the device may result in noise trauma. (c) Electrical shock: Excessive current or voltage levels may cause electrical shock. (d) Explosion: If explosive gases are present, the accumulation of electrostatic charge by this device may cause an explosion.

FDA agrees with the Panel recommendation and is proposing that ear, nose, and throat electric or pneumatic surgical drills be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.4350; Docket No. 78N-1606; Ear, nose, and throat fiberoptic light source and carrier.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ear, nose, and throat fiberoptic light sources and carriers:

1. Identification: An ear, nose, and throat fiberoptic light source and carrier is an AC-powered device that generates and transmits light through glass or plastic fibers and that is intended to provide illumination at the tip of an ear, nose, or throat endoscope. Endoscopic devices which utilize fiberoptic light sources and carriers include the bronchoscope, esophagoscope, laryngoscope, mediastinoscope, laryngeal-bronchial telescope, and nasopharyngoscope.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that ear, nose, and throat fiberoptic light sources and carriers be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Electrical shock: Excessive current or voltage levels from the device may cause electrical shock.

FDA agrees with the Panel recommendation and is proposing that ear, nose, and throat fiberoptic light sources and carriers be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.4400; Docket No. 78N-1607; Bronchial, tracheal, or esophageal surgical instrument.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of bronchial, tracheal, or esophageal surgical instruments:

1. Identification: A bronchial, tracheal, or esophageal surgical instrument is a device intended for use in surgical procedures to examine or treat the bronchus, esophagus, or trachea. This generic type of device includes the esophageal dilator, tracheal bistoury (a long, narrow surgical knife), tracheal dilator, and tracheal hook.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for these devices be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that bronchial, tracheal, or esophageal surgical instruments be classified into class II (performance standards) because the use of materials in these devices that are not biologically or mechanically compatible with the body may cause injury or illness to the patient. The Panel believes that general controls would not provide sufficient

control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, these devices.

5. Risks to health: Tissue trauma: If these devices are corroded or fracture during use due to inferior material, the resultant rough surfaces may cause lacerations of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction.

FDA agrees with the Panel recommendation and is proposing that bronchial, tracheal, or esophageal surgical instruments be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by these devices. A performance standard would provide reasonable assurance of the safety and effectiveness of the devices. The agency also believes that there is sufficient information available to establish a performance standard for these devices.

Section 874.4410; Docket No. 78N-1608; Surgical instrument for the ear.

The Ear, Nose, and Throat Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of surgical instruments for the ear:

1. Identification: A surgical instrument for the ear is a device intended for use in surgical procedures to examine or treat the ear. This generic type of device includes the ear curette, ear excavator, ear rasp, ear scissor, ear snare, ear spoon, ear suction tube, malleus nipper, mastoid gauge, mastoid rongeur, mastoid searcher, ear measuring rod, measuring gauge, microsurgical ear hook, microsurgical ear pick, middle ear chisel, myringotomy tube inserter, ossicle holding clamp, sacculotomy tack inserter, vein press, and wire ear loop.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for these devices be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that surgical instruments for the ear be classified into class II (performance standards) because the use of materials in these devices that are not biologically or mechanically compatible with the body may cause injury or illness to the patient. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: the Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, these devices.

5. Risks to health: Tissue trauma: If these devices are corroded or fracture during use due to inferior material, the resultant rough surfaces may cause lacerations of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction.

FDA agrees with the Panel recommendation and is proposing that surgical instruments for the ear be classified into class II (performance standards). The agency believes that a performance standard is necessary for these devices because general controls alone are insufficient to control the risks to health presented by these devices. A performance standard would provide reasonable assurance of the safety and effectiveness of the devices. The agency also believes that there is sufficient information available to establish a performance standard for these devices.

Section 874.4420; Docket No. 78N-1609; Ear, nose, and throat multiple-use surgical instrument.

The Ear, Nose, and Throat Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of ear, nose, and throat multiple-use surgical instruments:

1. Identification: An ear, nose, and throat multiple-use surgical instrument is one of a variety of devices intended for use in surgical procedures involving the ear, nose, or throat. This generic type of device includes the microrule; mirror; mobilizer; ear, nose, and throat punch; ear, nose, and throat knife; and ear, nose, and throat trocar.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for these devices be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that ear, nose, and throat multiple-use surgical instruments be classified into class II (performance standards) because the use of materials in the devices that are not biologically or mechanically compatible with the body may cause injury or illness to the patient. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the devices and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Tissue trauma: If the devices are corroded or fracture during use due to inferior material, the resultant rough surfaces may cause lacerations of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction.

FDA agrees with the Panel recommendation and is proposing that ear, nose, and throat multiple-use surgical instruments be classified into class II (performance standards). The agency believes that a performance standard is necessary for these devices because general controls alone are insufficient to control the risks to health presented by these devices. A performance standard would provide reasonable assurance of the safety and effectiveness of the devices. The agency also believes that there is sufficient information available to establish a performance standard for these devices.

Section 874.4430; Docket No. 78N-1610; Laryngeal surgical instrument.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of laryngeal surgical instruments:

1. Identification: A laryngeal surgical instrument is a device intended for use in surgical procedures to examine or treat the larynx. This generic type of device includes the laryngeal injection set, laryngeal knife, laryngeal saw, laryngeal trocar, and laryngectomy tube.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for these devices be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that laryngeal surgical instruments be classified into class II (performance standards) because the use of materials in the devices that are not biologically or mechanically compatible with the body may cause injury or illness to the patient. The Panel

believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Tissue trauma: If the devices are corroded or fractured during use due to inferior material, the resultant rough surfaces may cause lacerations of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction.

FDA agrees with the Panel recommendation and is proposing that laryngeal surgical instruments be classified into class II (performance standards). The agency believes that a performance standard is necessary for these devices because general controls alone are insufficient to control the risks to health presented by these devices. A performance standard would provide reasonable assurance of the safety and effectiveness of the devices. The agency also believes that there is sufficient information available to establish a performance standard for these devices.

Section 874.4440; Docket No. 78N–1611; Pharyngeal surgical instrument.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of pharyngeal surgical instruments:

1. Identification: A pharyngeal surgical instrument is a device intended for use in surgical procedures to examine or treat the pharynx. This generic type of device includes the adenoid curette, adenotome, metal tongue depressor, mouth gag, oral screw, salpingeal curette, tonsillectome, tonsil guillotine, tonsil screw, tonsil snare, tonsil suction tube, and tonsil suturing hook.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for these devices be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that pharyngeal surgical instruments be classified into class II (performance standards) because the use of materials in the devices that are not biologically or mechanically compatible with the body may cause injury or illness to the patient. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, these devices.

5. Risks to health: Tissue trauma: If the devices are corroded or fractures during use due to inferior material, the resultant rough surfaces may cause lacerations of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction.

FDA agrees with the Panel recommendation and is proposing that pharyngeal surgical instruments be classified into class II (performance standards). The agency believes that a performance standard is necessary for these devices because general controls alone are insufficient to control the risks to health presented by these devices. A performance standard would provide reasonable assurance of the safety and effectiveness of the devices. The agency also believes that there is sufficient information available to establish a performance standard for these devices.

Section 874.4450; Docket No. 78N–1612; Nasal and paranasal sinus surgical instrument.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nasal and paranasal sinus surgical instruments:

1. Identification: A nasal and paranasal sinus surgical instrument is a device intended for use in surgical procedures to examine or treat the nasal or paranasal sinuses. This generic type of device includes the antrum perforator, ethmoid curette, frontal sinus-rasp, nasal curette, nasal rasp, nasal rongeur, nasal saw, nasal scissors, nasal snare, sinus irrigator, and sinus trephine.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that nasal and paranasal sinus surgical instruments be classified into class II (performance standards) because the use of materials in the devices that are not biologically or mechanically compatible with the body may cause injury or illness to the patient. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Tissue trauma: If the devices are corroded or fractured during use due to inferior material, the resultant rough surfaces may cause lacerations of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction.

FDA agrees with the Panel recommendation and is proposing that nasal and paranasal sinus surgical instruments be classified into class II (performance standards). The agency believes that a performance standard is necessary for these devices because general controls alone are insufficient to control the risks to health presented by these devices. A performance standard would provide reasonable assurance of the safety and effectiveness of the devices. The agency also believes that there is sufficient information to establish a performance standard for these devices.

Section 874.4500; Docket No. 78N–1613; Ear, nose, and throat microsurgical carbon dioxide laser product.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ear, nose, and throat microsurgical carbon dioxide laser products:

1. Identification: An ear, nose, and throat microsurgical carbon dioxide laser product is a laser device intended for the surgical excision of tissue from the ear, nose, or throat area. The device is used, for example, in microsurgical procedures to excise lesions and tumors of the vocal cords and adjacent areas.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that ear, nose, and throat microsurgical carbon dioxide laser products be classified into class II (performance standards) because the

electrical properties of the device need to be controlled to prevent electrical shock and the calibration characteristics of the device need to be controlled to prevent tissue damage to the patient from misalignment or overexposure. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risk to health: (a) Electrical shock: Excessive current or voltage levels may cause electrical shock. (b) Tissue damage: Misalignment or overexposure may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that ear, nose, and throat carbon dioxide microsurgical laser products be classified into class II (performance standards). The agency believes that many of the risks to health presented by the device are controlled by the performance standards for laser products in §§ 1040.10 and 1040.11 (21 CFR 1040.10 and 1040.11). These standards were promulgated under the Radiation Control for Health and Safety Act (42 U.S.C. 263b through n). There are, however, other risks presented by these devices (e.g., electrical shock) that are not controlled by the present performance standards. These other risks should be controlled in future supplemental standards promulgated under section 514 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360d). The agency believes that performance standards are necessary for this device because general controls alone are insufficient to control the risks to health. The present and future performance standards for these devices would provide reasonable assurance of the safety and effectiveness of the device. FDA also believes that there is sufficient information to establish standards for the device.

Section 874.4680; Docket No. 78N–1616; Bronchoscope (flexible or rigid).

The Ear, Nose, and Throat Device Classification Panel and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of bronchoscopes (flexible or rigid):

1. Identification: A bronchoscope (flexible or rigid) is a tubular endoscopic device intended to examine or treat, under fiberoptic illumination, the tracheobronchial tree. This generic type of device includes the rigid ventilating bronchoscope, rigid nonventilating bronchoscope, and nonrigid bronchoscope. The device is made of materials such as stainless steel or flexible plastic.

2. Recommended classification: Class II (performance standards). The Ear, Nose, and Throat Device Classification Panel recommends that establishing a performance standard for this device be a low priority. The Anesthesiology Device Classification Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panels recommend that bronchoscopes (flexible or rigid) be classified into class II (performance standards) because the electrical properties of the device and the materials used in the device need to be controlled to prevent injury or electrical shock to the patient. The Panels believe that general controls would not provide sufficient control over these characteristics. The Panels believe that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: The Ear, Nose, and Throat Device Classification Panel identified the following risks to health: (a) Tissue trauma: If the device is corroded or fractures during use due to inferior material, the resultant rough surfaces may cause lacerations of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction. (b) Electrical shock: Excessive voltage or current levels may cause electrical shock. The Anesthesiology Device Classification Panel identified the following risks to health: (c) Trauma: Sharp edges on the device may cause trauma to the patient's airway. (d) Asphyxiation: Improper size or shape of the device may cause obstruction of the patient's airway. (e) Reflex stimulation: Improper size or shape of the device may cause reflex stimulation in the patient. (f) Infection: If the device is unable to be properly sterilized, infection may result. (g) Inadequate ventilation: Failure of the ventilation system of the rigid, ventilating bronchoscope may cause the patient to receive inadequate amounts of breathing gas.

FDA agrees with the recommendations of both Panels and is proposing that bronchoscopes (flexible or rigid) be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

FDA has reviewed the recommendations of the Ear, Nose, and Throat Device Classification Panel and of the Anesthesiology Device Classification Panel for bronchoscopes (flexible or rigid) and has concluded that the classification of this device should be published in the part of the Code of Federal Regulations for ear, nose, and throat devices.

Section 874.4685; Docket No. 78N–1617; Ear nose, and throat endoscopic accessory.

The Ear, Nose, and Throat Device Classification Panel and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of ear, nose, and throat endoscopic accessories:

1. Identification: An ear, nose, and throat endoscopic accessory is one of a group of diagnostic or therapeutic devices intended for use as attachments to laryngoscopes, bronchoscopes, laryngeal-bronchial telescopes, nasopharyngoscopes, esophagoscopes, or mediastinoscopes in the aerodigestive tract. This generic type of device includes the flexible foreign body claw, bronchoscope tubing, flexible biopsy forceps, rigid biopsy curette, flexible biopsy brush, rigid biopsy forceps, flexible biopsy curette, and rigid bronchoscope aspirating tube, but excludes fiberoptic light sources and carriers.

2. Recommended classification: The Ear, Nose, and Throat Device Classification Panel recommends that ear, nose, and throat endoscopic accessories be classified into class II (performance standards) and that establishing a performance standard for these devices be a low priority. The Anesthesiology Device Classification Panel recommends that rigid bronchoscope aspirating tubes, a specific type of endoscopic accessory, be classified into class II and that

establishing a performance standard for this device be a low priority. The Anesthesiology Device Classification Panel recommends that bronchoscope accessories, another specific type of endoscopic accessory, be classified into class I (general controls) with no exemptions.

3. Summary of reasons for recommendation: The Ear, Nose, and Throat Device Classification Panel recommends that ear, nose, and throat endoscopic accessories be classified into class II (performance standards) because the use of unsuitable materials in these devices may cause tissue trauma to the patient through corrosion or fracture. The panel believes that general controls would not provide sufficient controls over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard. The Ear, Nose, and Throat Device Classification Panel also recommends that the use of these devices should be restricted to qualified medical personnel and that the labeling of the device should state its length in centimeters. The Anesthesiology Device Classification Panel recommends that rigid bronchoscope aspirating tubes be classified into class II because the use of unsuitable materials in this device or the presence of sharp edges may cause tissue trauma to the patient. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a performance standard. The Anesthesiology Device Classification Panel recommends that bronchoscope accessories, a specific type of endoscopic accessory, be classified into class I (general controls) because the Panel believes that the device presents no unreasonable risks to health and that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: The Ear, Nose, and Throat Device Classification Panel identified the following risk to health: (a) Tissue trauma: If this device is corroded or fractures during use due to inferior material, the resultant rough surfaces may cause lacerations of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction. The Anesthesiology Device Classification Panel identified no risks to health for bronchoscope accessories, but identified the following risks to health for rigid bronchoscope aspirating tubes: (b) Tissue trauma: Sharp edges on this device or incompatibility of the device material with human tissue may cause tissue trauma to the patient.

FDA agrees with the Ear, Nose, and Throat Device Classification Panel recommendation and with the Anesthesiology Device Classification Panel recommendation concerning the rigid bronchoscope aspirating tubes, which the agency has determined are a specific type of ear, nose, and throat endoscopic accessory, and is proposing that ear, nose, and throat endoscopic accessories be classified into class II (performance standards). The agency believes that a performance standard is necessary for ear, nose, and throat endoscopic accessories because general controls alone are insufficient to control the risks to health presented by this device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device. The agency disagrees with the Anesthesiology Device Classification Panel recommendation that bronchoscope accessories be classified into class I (general controls). The agency believes that a performance standard is necessary for bronchoscope accessories, which the agency has determined are a specific type of ear, nose, and throat endoscopic accessory, because general controls alone are insufficient to control the risks to health identified by the Ear, Nose, and Throat Device Classification Panel for ear, nose, and throat endoscopic accessories. The agency believes that the risks identified by the Ear, Nose, and Throat Device Classification Panel for ear, nose, and throat endoscopic accessories are also presented by bronchoscope accessories.

FDA has reviewed the recommendations of the Ear, Nose, and Throat Device Classification Panel and of the Anesthesiology Device Classification Panel for ear, nose, and throat endoscopic accessories and has concluded that the classification of these devices should be published in the part of the Code of Federal Regulations for ear, nose, and throat devices.

Section 874.4710; Docket No. 78N–1619; Esophagoscope (flexible or rigid).

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of esophagoscopes (flexible or rigid):

1. Identification: an esophagoscope (flexible or rigid) is a tubular endoscopic device that is used to examine or treat, under fiberoptic illumination, esophageal malfunction symptoms, esophageal or mediastinal disease, or to remove foreign bodies from the esophagus. When inserted, the device extends from the area of the hypopharynx to the stomach. It is typically used with ear, nose, and throat endoscopic accessories and with fiberoptic light sources and carriers to provide illumination for viewing the esophageal mucosa. The device is made of materials such as stainless steel or flexible plastic.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that esophagoscopes (flexible or rigid) be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock, and use of materials in this device that are not biologically or mechanically compatible with the body may cause injury or illness to the patient. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Tissue trauma: If this device is corroded or fractures during use due to inferior material, the resultant rough surfaces may cause laceration of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction. (b) Electrical shock: Excessive current or voltage levels may cause electrical shock.

FDA agrees with the Panel recommendation and is proposing that esophagoscopes (flexible or rigid) be classified into class II (performance standards). The agency believes that a

performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.4720; Docket No. 78N-1620; Mediastinoscope.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of mediastinoscopes:

1. Identification: A mediastinoscope is a tubular tapered electrical endoscopic device that is used to examine or treat, under fiberopotic illumination, tissue in the area separating the lungs. The device is used in diagnosis of tumors and lesions and to determine whether excision of certain organs or tissues is indicated. The device is made of material such as stainless steel.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that mediastinoscopes be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock, and the use of materials in this device that are not biologically or mechanically compatible with the body, may cause injury or illness to the patient. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Tissue trauma: If the device is corroded or fractures during use due to inferior material, the resultant rough surfaces may cause lacerations of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction. (b) Electrical shock: Excessive current or voltage levels may cause electrical shock.

FDA agrees with the Panel recommendation and is proposing that mediastinoscopes be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.4750; Docket No. 78N-1622; External laryngostroboscope.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of external laryngostroboscopes:

1. Identification: An external laryngostroboscope is a device that is used to observe glottic action during phonation. The device operates by directing a stroboscopic light through a lens for reflected viewing of glottic action. The device does not contact the patient. It uses a mirror to direct light into the patient and an external noncontact microphone to pick up acoustic signals from the glottic area.

2. Recommended classification: Class I (general controls). The Panel recommends that the device be exempt from premarket notification requirements under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)).

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that it is a simple device that presents no unreasonable risks to health. The Panel recommends that this device be exempt from the requirements of section 510(k) of the act, premarket notification, because the Panel believes that there would be reasonable assurance that any substantially equivalent device, or modification of the device, would be reasonably safe and effective.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that external laryngostroboscopes be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency disagrees with the Panel recommendation that manufacturers of external laryngostroboscopes be exempt from premarket notification under section 510(k) of the act. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510(k) only upon a finding that compliance with section 510(k) is not necessary for the protection of the public health. In the case of laryngostroboscopes, the agency cannot make the required finding. Premarket notification by the manufacturers of this device assures that FDA learns of new products, and of significant modifications of existing products, for which premarket approval is required.

Section 874.4755; Docket No. 78N-1643; Laryngostroboscope (patient-contacting).

The Ear, Nose, and Throat Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of laryngostroboscopes (patient-contacting):

1. Identification: A laryngostroboscope (patient-contacting) is a device that is used to observe glottic action during phonation. The device operates by focusing a stroboscopic light through a lens for direct viewing of glottic action. The fiberoptic carriers that serve to direct light into the patient and the microphone that amplifies acoustic signals generated from the glottic area may contact the patient.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that laryngostroboscopes (patient-contacting) be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock. The Panel belives that general controls would not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Electrical shock: Excessive current or voltage levels from the device may cause electrical shock.

FDA agrees with the Panel recommendation and is proposing that laryngostroboscopes (patient-contacting) be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 874.4760; Docket No. 78N-1623; Nasopharyngoscope (flexible or rigid).

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nasopharyngoscopes (flexible or rigid):

1. Identification: A nasopharyngoscope (flexible or rigid) is a tubular endoscopic device that is used to examine or treat, under fiberoptic illumination, the nasal cavity and nasal pharynx. The device is made of materials such as stainless steel and flexible plastic. This generic type of device includes the antroscope, nasopharyngolaryngoscope, nasosinuscope, nasoscope, postrhinoscope, rhinoscope, and salpingoscope.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that nasopharyngoscopes (flexible or rigid) be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical injury, and the use of materials in this device that are not biologically or mechanically compatible with the body may cause injury or illness to the patient. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel provides reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Electrical shock: Excessive current or voltage levels from the device may cause electrical shock. (b) Tissue trauma: If this device is corroded or fractures during use due to inferior material the resultant rough surfaces may cause lacerations of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction.

FDA agrees with the Panel recommendation and is proposing that nasopharyngoscopes (flexible or rigid) be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information available to establish a performance standard for this device.

Section 874.4770; Docket No. 78N-1624; Otoscope.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of otoscopes:

1. Identification: An otoscope is a device used to inspect the external ear canal and tympanic membrane under magnification. The device provides illumination of the ear canal for observation by using an AC- or battery-powered light source and an optical magnifying system.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that otoscopes be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock, and the use of materials in this device that are not biologically or mechanically compatible with the body may cause injury or illness to the patient. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Electrical shock: If powered by alternating current, excessive current or voltage levels from this device may cause electrical shock. (b) Tissue trauma: If this device is corroded or fractures during use due to inferior material, the resultant rough surfaces may causes lacerations of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction.

FDA agrees with the Panel recommendation and is proposing that otoscopes be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information available to establish a performance standard for this device.

Section 874.4780; Docket No. 78N-1625; Laryngeal-bronchial telescope.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of laryngeal-bronchial telescopes:

1. Identification: A laryngeal-bronchial telescope is a tubular endoscopic device that is used to examine the larynx and bronchial tree tissue structure under fiberoptic illumination and optical magnification. The device is made of materials such as stainless steel and flexible plastic.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that laryngeal-bronchial telescopes be classified into class II (performance standards) because the use of materials in this device that are not biologically or mechanically compatible with the body may cause illness or injury to the patient. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that

there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Tissue trauma: If this device is corroded or fractures during use due to inferior material, the resultant rough surfaces may cause lacerations of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction.

FDA agrees with the Panel recommendation and is proposing that laryngeal-bronchial telescopes be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information available to establish a performance standard for this device. The agency notes that there is a risk to health of electrical shock from use of this device, in addition to the risks described by the Panel.

Section 874.4900; Docket No. 78N-1626; Tracheostomy tube.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of tracheostomy tubes:

1. Identification: A tracheostomy tube is a device that is placed into a surgical opening of the trachea to facilitate the passage of air to the lungs. The device is made of either stainless steel or rigid plastic.

2. Recommended classfication: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that tracheostomy tubes be classified into class II (performance standards) because the use of materials in this device that are not biologically or mechanically compatible with the body may cause injury or illness to the patient. The device requires frequent, periodic cleaning and is not considered to be an implant. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Tissue trauma: If this device is corroded or fractures during use due to inferior material, the resultant rough surfaces may cause lacerations of the body tissue. A device which fractures inside a patient may also cause tissue injury and necessitate emergency procedures for extraction.

FDA agrees with the Panel recommendation and is proposing that tracheostomy tubes be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls along are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information available to establish a performance standard for this device.

Section 874.4910; Docket No. 78N-1627; Tracheal tube cleaning brush.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of tracheal tube cleaning brushes:

1. Identification: A tracheal tube cleaning brush is a device consisting of a brush with plastic bristles intended to clean tracheal cannula devices after their removal from patients.

2. Recommended classification: Class I (general controls). The Panel recommends that the device be exempt from premarket notification requirements under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)).

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that it is a simple device which presents no unreasonable risks to health. The Panel recommends that this device be exempt from the requirements of section 510(k) of the act, premarket notification, because the Panel believes that there would be reasonable assurance that any substantially equivalent device or modification of the device would be reasonably safe and effective.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that tracheal tube cleaning brushes be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of tracheal tube cleaning brushes be exempt from section 510(k) of the act (21 U.S.C. 360), FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations.

However, FDA is proposing that manufacturers of this device who do not label or otherwise represent it as sterile be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. A manufacturer of a tracheal tube cleaning brush that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety. See the discussion under the heading "Exemptions for Class I Devices" for a complete explanation of the agency's policies concerning exemptions.

Section 874.4920; Docket No. 78N-1628; Tracheostomy tube cuff.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of tracheostomy tube cuffs:

1. Identification: A tracheostomy tube cuff is a device intended to establish a seal between the tracheal wall and a tracheostomy tube by means of an inflatable cuff surrounding the tracheostomy tube. The device is used to improve aspiration or to provide a method for positive-pressure breathing.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that tracheostomy tube

cuffs be classified into class II (performance standards) because the physical characteristics of the device need to be controled to prevent injury to the patient. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard. The Panel recommends that labeling of the device indicate the maximum air pressure allowed in the cuff.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel memebers' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Tissue erosion: Overinflation or eccentric inflation of the cuff may result in erosion of the soft tissue of the trachea.

FDA agrees with the Panel recommendation and is proposing that tracheostomy tube cuffs be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information available to establish a performance standard for this device.

Section 874.5220; Docket No. 78N–1629; Ear, nose, and throat drug administration device.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ear, nose, and throat drug administration devices:

1. Identification: An ear, nose, and throat drug adminstration device is one of a group of ear, nose, and throat devices intended specifically to administer medicinal substances to treat ear, nose, and throat disorders. These instruments include the powder blower, dropper, ear wick, manual nebulizer pump, and nasal inhaler.

2. Recommended classification: Class I (general controls). The Panel recommends that the devices be exempt from premarket notification requirements under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)).

3. Summary of reasons for recommendation: The Panel recommends that these devices be classified into class I (general controls) because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices. The Panel believes that they are simple devices that present no unreasonable risks to health. The Panel recommends that these devices be exempt from the requirements of section 510(k) of the act, premarket notification, because the Panel believes that there would be reasonable assurance that any substantially equivalent device or modification of the device would be reasonably safe and effective.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clincial experience with, the devices.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that ear, nose, and throat drug administration devices be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices. The agency disagrees with the Panel recommendation that manufacturers of ear, nose, and throat drug administration devices be exempt from premarket notification under section 510(k) of the act. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510(k) only upon a finding that compliance with section 510(k) is not necessary for the protection of the public health. In the case of ear, nose, and throat drug administration devices, the agency cannot make the required finding. Premarket notification by manufacturers of these devices assures that FDA learns of new products, and of significant modifications of existing products, for which premarket approval is required.

However, FDA is proposing that manufacturers of these devices who do not label or otherwise represent them as sterile be exempt, in the manufacture of the devices, from all requirements in the GMP regulations except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. A manufacturer of an ear, nose, and throat drug administration device that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety. See the discussion under the heading "Exemptions for Class I Devices" for a complete explanation of the agency's policies concerning exemptions.

Section 874.5300; Docket No. 78N–1630; Ear, nose, and Throat examination and treatment unit.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ear, nose, and throat examination and treatment units:

1. Identification: An ear, nose, and throat examination and treatment unit is an AC-powered device intended to support a patient during an otologic examination while providing specialized features for examination and treatment. The unit consists of a patient chair and table, drawers for equipment, suction and blowing apparatus, and output receptacles for connection of specialized lights and examining instruments.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that ear, nose, and throat examination and treatment units be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Electrical shock: Excessive current or voltage levels from the device may cause electrical shock.

FDA agrees with the Panel recommendation and is proposing that ear, nose, and throat examination and treatment units be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information available to establish a performance standard for this device.

Section 874.5350; Docket No. 78N–1597; Suction antichoke device.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of suction antichoke devices:

1. Identification: A suction antichoke device is a device intended to be used in an emergency situation to remove, by the application of suction, foreign objects that obstruct a patient's airway to prevent asphyxiation of the patient.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that suction antichoke devices be classified into class III because they are life-sustaining devices and the Panel believes that premarket approval is necessary to provide reasonable assurance of the safety and effectiveness of the device. The use of the suction principle has been found to be ineffective for removing foreign objects from the airway (Ref. *58*). The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel has strong reservations about the use of this device in emergency situations involving foreign body airway obstruction. The Panel also believes that a performance standard would not provide reasonable assurance of the safety and effectiveness of the device and that there is not sufficient information to establish a standard. Therefore, the device should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the study by Archer S. Gordon, M.D., U.C.L.A. Medical School (Ref. *58*). Dr. Gordon stated that his experience in testing this device revealed unsuccessful performance. He found that as suction was created by this device, the cheeks and tongue were sometimes sucked in, thereby hindering proper operation.

5. Risks to health: Asphyxiation: The suction feature of this device has been found to be ineffective for the removal of foreign objects from an obstructed airway. Failure of the device to perform as intended could result in asphyxiation of the patient.

FDA agrees with the Panel recommendation and is proposing that the suction antichoke devices be classified into class III (premarket approval). FDA believes that the device presents a potential unreasonable risk of illness or injury to the patient, in that ineffective operation of the device may waste valuable time and cause the patient to be asphyxiated. Moreover, the agency believes that the device is purported or represented to be for a use in supporting or sustaining human life. The Federal Food, Drug, and Cosmetic Act requires the agency to classify a life supporting or life sustaining device into class III unless it determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case the agency has determined that premarket approval is necessary. The agency believes that general controls or performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

Section 874.5370; Docket No. 78N–1598; Tongs antichoke device.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommenation regarding the classification of tongs antichoke devices:

1. Identification: A tongs antichoke device is a device that is intended to be used in an emergency situation to grasp and remove foreign objects that obstruct a patient's airway to prevent asphyxiation of the patient. This generic type of device includes a plastic instrument with serrated ends that is inserted into the airway in a blind manner to grasp and extract foreign objects, and a stainless steel forceps with spoon ends that is inserted under tactile guidance to grasp and extract foreign objects from the airway.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of these devices be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that tongs antichoke devices be classified into class III because these devices are life-sustaining in an emergency situation and present a potential unreasonable risk of injury to the patient. The Panel notes that the use of this generic type of device on patients with partial obstruction of the airway may force the obstruction further down the airway causing complete obstruction. When using this generic type of device, the user cannot distinguish between foreign bodies or human anatomical structures; therefore, the user may inadvertently grip and tear or rupture these structures. Although the Panel believes that the risk of injuring body structures is less with the metal forceps with spoon ends than with the plastic instrument with serrated ends, the Panel believes the generic device presents a potential unreasonable risk of asphyxiation of, or injury to, the patient. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel also believes that a performance standard would not provide reasonable assurance of the safety and effectiveness of the devices and that there is insufficient information to establish a standard. Therefore, the devices should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the devices and thus assure their safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on a presentation by David S. Halbert, M.D., Sabian Corp., at the November 6, 1978 Panel meeting and on a study by Archer S. Gordon, M.D., UCLA Medical School (Ref. *58*). Dr. Gordon reported that in 80 to 85 percent of the cases tested with a tongs-type foreign body extractor, an anatomical structure was grasped rather than the foreign body. Further, he reported that in 80 percent of the cases where the foreign body was grasped, it could not be removed with the tongs (Ref. *58*). Dr. Halbert addressed the safety and effectiveness of the forceps-type foreign body extractors, explaining the advantages of the foreceps-type design and the studies that he performed to show its effectiveness.

5. Risks to health: (a) Asphyxiation: The use of the generic type of device on a patient with a partial obstruction may force the obstruction further down the airway, causing complete obstruction. (b) Damage to anatomical structures: Anatomical structures can be grasped by the tongs and torn or ruptured. (Risk considered minimal by the Panel for the foreceps-type foreign body extractors with spoon ends). (c) Panic: Injured and bleeding anatomical structures may result in, or contribute to, panic of the patient (Risk considered minimal by the Panel for forceps-type foreign body extractor with spoon ends).

FDA agrees with the Panel recommendation and is proposing that the tongs antichoke devices be classified into class III (premarket approval). FDA believes that the device presents a potential unreasonable risk of illness or injury to the patient, in that the device may force the obstruction down the airway and may also, if it operates ineffectively, waste valuable time and cause the patient to be asphyxiated. Moreover, the agency believes that the

devices are purported or represented to be for a use in supporting or sustaining human life. The Federal Food, Drug, and Cosmetic Act requires the agency to classify an implant or a life supporting or life sustaining device into class III unless it determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case the agency has determined that premarket approval is necessary. The agency believes that general controls or performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

Section 874.5550; Docket No. 78N-1631; Powered nasal irrigator.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of powered nasal irrigators:

1. Identification: A powered nasal irrigator is an AC-powered device intended to wash the nasal cavity by means of a pressure-controlled, pulsating stream of water. The device consists of a control unit and pump connected to a spray tube and nozzle.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that powered nasal irrigators be classified into class II (performance standards) because the electrical properties of the device need to be controlled to prevent electrical shock, and the fluid pressure from the device needs to be controlled to prevent damage to the nasal mucosa. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard. The Panel recommends that the labeling of the device state the output pressure and flow rate with each nozzle.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Electrical shock: Excessive current or voltage levels from the device may cause electrical shock. (b) Nasal mucosa damage: Excessive fluid pressure levels from this device may cause damage to the nasal mucosa.

FDA agrees with the Panel recommendation and is proposing that powered nasal irrigators be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information available to establish a performance standard for this device.

Section 874.5800; Docket No. 78N-1634; External nasal splint.

The Ear, Nose, and Throat Device Classification Panel and the General and Plastic Surgery Device Classification Panel, FDA advisory committees, made the following recommendation regarding the classification of external nasal splints:

1. Identification: An external nasal splint is a rigid or partially rigid device intended for use externally for immobilization of parts of the nose.

2. Recommended classification: Class I (general controls). The Ear, Nose, and Throat Device Classification Panel recommends that the device be exempt from premarket notification requirements under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)). The General and Plastic Surgery Device Classification Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panels recommend that this device be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panels believe that it is a simple device which presents no unreasonable risks to health. The Ear, Nose, and Throat Device Classification Panel recommends that this device be exempt from the requirements of section 510(k) of the act, premarket notification, because the Panel believes that there would be reasonable assurance that any substantially equivalent device, or modification of the device, would be reasonably safe and effective.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panels' recommendations and is proposing that external nasal splints be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency disagrees with the Ear, Nose, and Throat Device Classification Panel recommendation that manufacturers of external nasal splints be exempt from premarket notification under section 510(k) of the act. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510(k) only upon a finding that compliance with section 510(k) is not necessary for the protection of the public health. The agency cannot make the required finding for external nasal splints. Premarket notification by manufacturers of this device assures that FDA learns of new products, and of significant modifications of existing products, for which premarket approval is required.

FDA has reviewed the recommendations of the Ear, Nose, and Throat Device Classification Panel and the General and Plastic Surgery Device Classification Panel for external nasal splints and has concluded that the classification of this device should be published in the part of the Code of Federal Regulations for ear, nose, and throat devices.

Section 874.5840; Docket No. 78N-1635; Antistammering device.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of antistammering devices:

1. Identification: An antistammering device is a device that electronically generates a noise when it senses the user's speech and that is intended to prevent the user from hearing the sounds of his or her own voice. The device is used to minimize a user's involuntary hesitative or repetitive speech.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for these devices be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that antistammering devices be classified into class II (performance standards) because the acoustic output levels of the devices need to be controlled to prevent hearing damage. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the devices

and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, these devices.

5. Risks to health: Hearing damage: If the volume of sound produced by the device is excessive, hearing damage may result.

FDA agrees with the Panel recommendation and is proposing that antistammering devices be classified into class II (performance standards). The agency believes that a performance standard is necessary for these devices because general controls alone are insufficient to control the risks to health presented by these devices. A performance standard would provide reasonable assurance of the safety and effectiveness of the devices. The agency also believes that there is sufficient information to establish a performance standard for these devices.

Section 874.5850; Docket No. 78N-1636; Transdermal stimulator.

The Ear, Nose, and Throat Device Classification Panel, an FDA advisory committee, made the following recommendations regarding the classification of transdermal stimulators:

1. Identification: A transdermal stimulator is an electrical device that is intended to improve speech discrimination in hearing-impaired persons by introducing electromagnetic energy through electrodes positioned on the scalp.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that transdermal stimulators be classified into class III (premarket approval) because the Panel believes that the device presents a potential unreasonable risk of illness or injury and that premarket approval is necessary to provide reasonable assurance of the device's safety and effectiveness. The Panel believes this device to be ineffective and there is a serious hazard of learning impairment in deaf children who use this device in lieu of appropriate effective therapy. The Panel noted that the data respecting the effectiveness of the device are both sparse and contradictory, and a physiologic basis for the purported improvement in speech discrimination with use of this device is unknown. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard would not provide reasonable assurance of the safety and effectiveness of the device and that there is insufficient information to establish a standard. The device, therefore, should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness. The Panel recommends that this device should be considered only for investigative use under very carefully controlled conditions, with written informed consent from the patient, stating that the patient is aware that use of this device is experimental.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on its review of the medical literature (Refs. 59, 60, and 61) and on the Panel members' personal knowledge of, and clinical experience with, this device.

5. Risks to health: (a) Electric shock: Excessive current or voltage levels from the device may cause electrical shock. (b) Learning impairment: The use of this device with deaf children in lieu of appropriate treatment may result in impaired learning ability.

FDA agrees with the Panel recommendation and is proposing that transdermal stimulators be classified into class III (premarket approval). The agency believes that the device presents a potential unreasonable risk of illness or injury in that the use of an ineffective device with deaf children in lieu of appropriate therapy may cause learning impairment. The agency believes that general controls and performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

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Environmental Impact

The agency has determined pursuant to 21 CFR 25.24(b)(12) (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.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))), and under authority delegated to him (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), the Commissioner of Food and Drugs proposes that Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 874 to read as follows:

PART 874—EAR, NOSE, AND THROAT DEVICES

Subpart A—General Provisions

Sec.
874.1 Scope.

Subpart B—Ear, Nose, and Throat Diagnostic Devices

874.1050 Audiometer.
874.1060 Acoustic chamber for audiometric testing.
874.1070 Short increment sensitivity index (SISI) adapter.
874.1080 Audiometer calibration set.
874.1090 Auditory impedance tester.
874.1100 Earphone cushion for audiometric testing.
874.1120 Electronic noise generator for audiometric testing.
874.1325 Electroglottograph.
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874.1800 Air caloric stimulator.
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874.1820 Surgical nerve stimulator/locator.
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Subpart C—[Reserved]

Subpart D—Ear, Nose, and Throat Prosthetic Devices

874.3300 Hearing aid.
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874.3510 Porous polyethylene total ossicular replacement prosthesis.
874.3540 Prosthesis modification instrument for ossicular replacement surgery.

Sec.
874.3620 Ear, nose, and throat polyamide mesh or foil synthetic polymer material.
874.3630 Ear, nose and throat porous polyethylene synthetic polymer material.
874.3650 Ear, nose, and throat polytetrafluoroethylene synthetic polymer with carbon fibers composite material.
874.3695 Mandibular implant facial prosthesis.
874.3730 Laryngeal prosthesis (Taub design).
874.3760 Sacculotomy tack (Cody tack).
874.3820 Endolymphatic shunt tube.
874.3850 Endolymphatic shunt tube with valve.
874.3880 Tympanostomy tube.
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Subpart E—Ear, Nose, and Throat Surgical Devices

874.4100 Epistaxis balloon.
874.4140 Ear, nose, and throat bur.
874.4175 Nasopharyngeal catheter.
874.4250 Ear, nose, and throat electric or pneumatic surgical drill.
874.4350 Ear, nose, and throat fiber-optic light source and carrier.
874.4400 Bronchial, tracheal, or esophageal surgical instrument.
874.4410 Surgical instrument for the ear.
874.4420 Ear, nose, and throat multiple-use surgical instrument.
874.4430 Laryngeal surgical instrument.
874.4440 Pharyngeal surgical instrument.
874.4450 Nasal and paranasal sinus surgical instrument.
874.4500 Ear, nose, and throat microsurgical carbon dioxide laser product.
874.4680 Bronchoscope (flexible or rigid).
874.4685 Ear, nose, and throat endoscopic accessory.
874.4710 Esophagoscope (flexible or rigid).
874.4720 Mediastinoscope.
874.4750 External laryngostroboscope.
874.4755 Laryngostroboscope (patient-contacting).
874.4760 Nasopharyngoscope (flexible or rigid).
874.4770 Otoscope.
874.4780 Laryngeal-bronchial telescope.
874.4900 Tracheostomy tube.
874.4910 Tracheal tube cleaning brush.
874.4920 Tracheostomy tube cuff.

Subpart F—Ear, Nose, and Throat Therapeutic Devices

874.5220 Ear, nose, and throat drug administration device.
874.5300 Ear, nose, and throat examination and treatment unit.
874.5350 Suction antichoke device.
874.5370 Tongs antichoke device.
874.5550 Powered nasal irrigator.
874.5800 External nasal splint.
874.5840 Antistammering device.
874.5850 Transdermal stimulator.

Authority: Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).

Subpart A—General Provisions

§ 874.1 Scope.

(a) This part sets forth the classification of ear, nose, and throat devices intended for human use.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under Part 807 cannot show merely that the device is accurately described by the section title and identification provision of a regulation in this part, but shall state why the device is substantially equivalent to other devices, as required by § 807.87.

(c) To avoid duplicative listings, an ear, nose, and throat device that has two or more types of uses (e.g., used both as a diagnostic device and as a therapeutic device) is listed in one subpart only.

(d) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless othewise noted.

Subpart B—Ear, Nose, and Throat Diagnostic Devices

§ 874.1050 Audiometer.

(a) *Identification.* An audiometer or automated audiometer is an electroacoustic device that produces controlled levels of test tones and signals intended for use in conducting diagnostic hearing evaluations and assisting in the diagnosis of possible otologic disorders.

(b) *Classification.* Class II (performance standards).

§ 874.1060 Acoustic chamber for audiometric testing.

(a) *Identification.* An acoustic chamber for audiometric testing is a room that is intended for use in conducting diagnostic hearing evaluations and that eliminates sound reflections and provides isolation from outside sounds.

(b) *Classification.* Class II (performance standards).

§ 874.1070 Short increment sensitivity index (SISI) adapter.

(a) *Identification.* A short increment sensitivity index (SISI) adapter is a device that is intended for use with an audiometer in diagnostic hearing evaluations. A SISI adapter provides short periodic sound pulses in specific small decibel increments that are superimposed on the audiometer's output tone frequency.

(b) *Classification.* Class II (performance standards).

§ 874.1080 Audiometer calibration set.

(a) *Identification.* An audiometer calibration set is an electronic reference device that is used to calibrate an audiometer. It measures the sound frequency and intensity characteristics that emanate from an audiometer earphone. The device consists of an acoustic cavity of known volume, a sound level meter, a microphone with calibration traceable to the National Bureau of Standards, oscillators, frequency counters, microphone amplifiers, and a recorder. The device can measure selectable audiometer test frequencies at a given intensity level, and selectable audiometer attenuation settings at a given test frequency.

(b) *Classification.* Class II (performance standards).

§ 874.1090 Auditory impedance tester.

(a) *Identification.* An auditory impedance tester is a device that is intended to change the air pressure in the external auditory canal and measure and graph the mobility characteristics of the tympanic membrane to evaluate the functional condition of the middle ear. The device is used to determine abnormalities in the mobility of the tympanic membrane due to stiffness, flaccidity, or the presence of fluid in the middle ear cavity. The device is also used to measure the acoustic reflex threshold from contractions of the stapedial muscle, to monitor healing of tympanic membrane grafts or stapedectomies, or to monitor followup treatment for inflammation of the middle ear.

(b) *Classification.* Class II (performance standards).

§ 874.1100 Earphone cushion for audiometric testing.

(a) *Identification.* An earphone cushion for audiometric testing is a device that is used to cover an audiometer earphone during audiometric testing to provide an acoustic coupling (sound connection path) between the audiometer earphone and the patient's ear.

(b) *Classification.* Class II (performance standards).

§ 874.1120 Electronic noise generator for audiometric testing.

(a) *Identification.* An electronic noise generator for audiometric testing is a device that consists of a swept frequency generator, an amplifier, and an earphone. It is used to introduce a masking noise into the non-test ear during an audiometric evaluation. The device minimizes the non-test ear's

sensing of test tones and signals being generated for the ear being tested.

(b) *Classification.* Class II (performance standards).

§ 874.1325 Electroglottograph.

(a) *Identification.* An electroglottograph is an AC-powered device that employs a pair of electrodes that are placed in contact with the skin on both sides of the larynx and held in place by a collar. It is intended to measure the electrical impedance of the larynx to aid in assessing the degree of closure of the vocal cords, confirm laryngeal diagnosis, aid behavioral treatment of voice disorders, and aid research concerning the laryngeal mechanism.

(b) *Classification.* Class II (performance standards).

§ 874.1500 Gustometer.

(a) *Identification.* A gustometer is a battery-powered device that consists of two electrodes that are intended to be placed on both sides of the tongue at different taste centers and that provides a galvanic stimulus resulting in taste sensation. It is used for assessing the sense of taste.

(b) *Classification.* Class I (general controls). If the device is not labeled or otherwise represented as sterile, it is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180 with respect to general requirements concerning records, and § 820.198 with respect to complaint files.

§ 874.1800 Air caloric stimulator.

(a) *Identification.* An air caloric stimulator is an AC-powered device that delivers a stream of air to the ear canal at controlled rates of flow and temperature and that is intended for vestibular function testing of a patient's body balance system. The vestibular stimulation of the semicircular canals produce involuntary eye movements that are measured and recorded by a nystagmograph.

(b) *Classification.* Class II (performance standards).

§ 874.1810 Water caloric stimulator.

(a) *Identification.* A water caloric stimulator is an AC-powered device that delivers a stream of water to the ear canal at controlled rates of flow and temperature and that is intended for vestibular function testing of a patient's body balance system. The vestibular stimulation of the semicircular canals produces involuntary eye movements that are measured and recorded by a nystagmograph.

(b) *Classification.* Class II (performance standards).

§ 874.1820 Surgical nerve stimulator/locator.

(a) *Identification.* A surgical nerve stimulator/locator is a device that is intended to provide electrical stimulation to the body to locate and identify nerves and to test their excitability.

(b) *Classification.* Class II (performance standards).

§ 874.1925 Toynbee diagnostic tube.

(a) *Identification.* The toynbee diagnostic tube is a listening device intended to determine the degree of openness of the eustachian tube.

(b) *Classification.* Class I (general controls).

Subpart C—[Reserved]

Subpart D—Ear, Nose, and Throat Prosthetic Devices

§ 874.3300 Hearing aid.

(a) *Identification.* A hearing aid is a wearable electronic sound-amplifying devide that is intended to compensate for impaired hearing. This generic type of device excludes tinnitus maskers, master hearing aids, and group hearing aids or group auditory trainers.

(b) *Classification.* Class II (performance standards).

§ 874.3310 Hearing aid calibrator and analysis system.

(a) *Identification.* A hearing aid calibrator and analysis system is an electronic reference device intended to calibrate and assess the electroacoustic frequency and sound intensity characteristics emanating from hearing aids, master hearing aids, group hearing aids or group auditory trainers. The device consists of an acoustic complex of known cavity volume, a sound level meter, a microphone, oscillators, frequency counters, microphone amplifiers, a distortion analyzer, a chart recorder, and a hearing aid test box.

(b) *Classification.* Class II (performance standards).

§ 874.3320 Group hearing aid or group auditory trainer.

(a) *Identification.* A group hearing aid or group auditory trainer is a hearing aid that is intended for use in communicating simultaneously with one or more listeners having hearing impairment. The device is used with an associated transmitter microphone. It may be either monaural or binaural, and it provides coupling to the ear through either earphones or earmolds. The generic type of device includes three types of applications: hardwire systems, inductance loop systems, and wireless systems.

(b) *Classification.* Class II (performance standards).

§ 874.3330 Master hearing aid.

(a) *Identification.* A master hearing aid is an electronic device intended to simulate a hearing aid during audiometric testing. It has adjustable acoustic output levels, such as those for gain, output, and frequency response. The device is used to select and adjust a person's wearable hearing aid.

(b) *Classification.* Class II (performance standards).

§ 874.3375 Battery-powered artificial larynx.

(a) *Identification.* A battery-powered artificial larynx is an externally applied device intended for use in the absence of the larynx to excite the vocal cords. When held against the skin in the area of the voicebox, the device generates mechanical vibrations and thereby excites the vocal cords to produce sound.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180 with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 874.3400 Tinnitus masker.

(a) *Identification.* A tinnitus masker is an electronic device intended to generate noise of sufficient intensity and bandwidth to mask ringing in the ears or internal head noises. Because the device is able to mask internal noises, it is also used as an aid in hearing external noises and speech.

(b) *Classification.* Class III (premarket approval).

§ 874.3430 Middle ear mold.

(a) *Identification.* A middle ear mold is a preformed device that is surgically implanted and intended to reconstruct the middle ear cavity during repair of the tympanic membrane. The device permits an ample air-filled cavity to be maintained in the middle ear and promotes regeneration of the mucous membrane lining of the middle ear cavity. A middle ear mold is made of materials such as polyamide, polytetrafluoroethylene, silicone elastomer, or polyethylene, but does not contain porous polyethylene.

(b) *Classification.* Class II (performance standards).

§ 874.3450 Partial ossicular replacement prothesis.

(a) *Identification.* A partial ossicular replacement prosthesis is an implanted device that is intended for use in the reconstruction of segments of the ossicular chain and that facilitates the conduction of sound waves to the inner ear. The device is made of materials such as stainless steel, tantalum, polytetrafluoroethylene, polyethylene, polytetrafluoroethlene with carbon fibers composite, absorbable gelatin material, or from a combination of these materials, but it does not contain porous polyethylene.

(b) *Classification.* Class II (performance standards).

§ 874.3465 Porous polyethylene partial ossicular replacement prosthesis.

(a) *Identification.* A porous polyethylene partial ossicular replacement prosthesis is an implanted device intended for the functional reconstruction of segments of the ossicular chain and facilitates the conduction of sound waves from the tympanic membrane to the inner ear. The device is made of porous polyethylene alone or porous polyethylene with other materials.

(b) *Classification.* Class III (premarket approval).

§ 874.3495 Total ossicular replacement prosthesis.

(a) *Identification.* A total ossicular replacement prosthesis is an implanted device that is intended for use in the total reconstruction of the ossicular chain and that facilitates the conduction of sound waves ot the inner ear. The device is made of materials such as polytetrafluoroethylene or polytetrafluoroethylene with vitreous carbon fibers composite. Porous polyethylene is not used in the device.

(b) *Classification.* Class II (performance standards).

§ 874.3510 Porous polyethylene total ossicular replacement prosthesis.

(a) *Identification.* A porous polyethylene total ossicular replacement prosthesis is an implanted device intended for the functional reconstruction of the ossicular chain including the malleus and that facilitates the conduction of sound waves from the tympanic membrane to the inner ear. The device is made of porous polyethylene alone or porous polyethylene with other materials.

(b) *Classification.* Class III (premarket approval).

§ 874.3540 Prosthesis modification instrument for ossicular replacement surgery.

(a) *Identification.* A prosthesis modification instrument for ossicular replacement surgery is a device intended for use by a surgeon to construct ossicular replacements. This generic type of device includes the ear, nose, and throat cutting block; wire crimper; wire bending die; wire closure forceps; piston cutting jib; gelfoam punch; wire cutting scissors; and ossicular finger vise.

(b) *Classification.* Class I (general controls). If the device is not labeled or otherwise represented as sterile, it is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180 with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 874.3620 Ear, nose, and throat polyamide mesh or foil synthetic polymer material.

(a) *Identification.* Ear, nose, and throat polyamide mesh or foil synthetic polymer material is an implanted material that is intended for use as a space-occupying substance in the reconstructive surgery of the head and neck. The device is used, for example, in augmentation rhinoplasty and in tissue defect closures in the esophagus. The device is shaped and formed by the surgeon to conform to the patient's needs. This generic type of device does not contain porous polyethylene material.

(b) *Classification.* Class II (performance standards).

§ 874.3630 Ear, nose, and throat porous polyethylene synthetic polymer material.

(a) *Identification.* Ear, nose, and throat porous polyethylene synthetic polymer material is a porous polyethylene material that is intended to be formed by a surgeon into an implant used as a space-occupying substance and as a tissue-inviting replacement for diseased bone or tissue voids in areas of the ear, nose, and throat.

(b) *Classification.* Class III (premarket approval).

§ 874.3650 Ear, nose, and throat polytetrafluoroethylene synthetic polymer with carbon fibers composite material.

(a) *Identification.* Ear, nose, and throat polytetrafluoroethylene synthetic polymer with carbon fibers composite material is an implanted material that is intended for use as a space-occupying substance in the reconstructive surgery of the ear, nose, and throat. The device is used, for example, for cartilage and bone reconstruction and in situations where stabilization by tissue ingrowth is desired. An example of use includes the repair of mastoid and sinus obliteration. The device is shaped and formed by the surgeon to conform to the patient's need.

(b) *Classification.* Class II (performance standards).

§ 874.3695 Mandibular implant facial prosthesis.

(a) *Identification.* A mandibular implant facial prosthesis is an implanted device that is intended for use in the functional reconstruction of mandibular deficits. The device is made of materials such as stainless steel, tantalum, titanium, cobalt-chromium based alloy, polytetrafluoroethylene, silicone elastomer, polyethlene, polyurethane, or polytetrafluoroethylene with carbon fibers composite, but not porous polyethylene.

(b) *Classification.* Class II (performance standards).

§ 874.3730 Laryngeal prosthesis (Taub design).

(a) *Identification.* A laryngeal prosthesis (Taub design) is a device orally inserted and removed each day and intended to direct pulmonary air flow to the pharynx in the absence of the larynx. The device is interposed between openings in the trachea and the esophagus. During phonation, air from the lungs is directed to flow through the device and over the esophageal mucosa to provide a sound source that is articulated as speech.

(b) *Classification.* Class II (performance standards).

§ 874.3760 Sacculotomy tack (Cody tack).

(a) *Identification.* A sacculotomy tack (Cody tack) is an implanted device that consists of a pointed metal tack which repetitively ruptures the utricular membrane as the membrane expands under increased endolymphatic pressure and is intended to relieve the symptoms of vertigo. The device is made of stainless steel.

(b) *Classification.* Class II (performance standards).

§ 874.3820 Endolymphatic shunt tube.

(a) *Identification.* An endolymphatic shunt tube is an implanted device that consists of a tube which permits excess endolymph from the distended end of the endolymphatic system to flow into the mastoid cavity where resorption occurs and is intended to relieve the symptoms of vertigo. The device is made of polytetrafluoroethylene or silicone elastomer.

(b) *Classification.* Class II (performance standards).

§ 874.3850 Endolymphatic shunt tube with valve.

(a) *Identification.* An endolymphatic shunt tube with valve is an implanted device that consists of a unidirectional inner ear valve associated with a tube to direct excess endolymph from the distended end of the endolymphatic system into the mastoid cavity where resorption occurs and that is intended to relieve the symptons of vertigo. The device is made of silicone elastomer and polyamide and contains gold radiopague markers within the solicone elastomer sheath.

(b) *Classification.* Class III (premarket approval).

§ 874.3880 Tympanostomy tube.

(a) *Identification.* A tympanostomy tube is an implanted device that is intended for ventilation or drainage of the middle ear. The device is inserted through the tympanic membrane to permit a free exchange of air between the outer ear and middle ear. A type of tympanostomy tube known as the mallious clip tube attaches to the malleous to provide middle ear ventilation. The device is made of materials such as polytetrafluoroethylene, polyethylene, or silicone elastomer, but tympanostomy tubes made of porous polyethylene are excluded.

(b) *Classification.* Class II (performance standards).

§ 874.3910 Porous polyethylene tympanostomy tube.

(a) *Identification.* A porous polyethylene tympanostomy tube is an implanted device that is intended for ventilation or drainage of the middle ear. The device is inserted through the tympanic membrane to permit a free exchange of air between the outer ear and middle ear. The device is made of porous polyethylene alone or porous polyethylene with other materials.

(b) *Classification.* Class III (premarket approval).

§ 874.3930 Tympanostomy tube with semi-permeable membrane.

(a) *Identification.* A tympanostomy tube with a semipermeable membrane is an implanted device intended for ventilation or drainage of the middle ear and for preventing fluids from entering the middle ear cavity. The device is inserted through the tympanic membrane to permit a free exchange of air between the outer ear and middle ear. The tube portion of the device is made of silicone elastomer or porous polyethylene, and the membrane portion is made of polytetrafluorethylene.

(b) *Classification.* Class III (premarket approval).

Subpart E—Ear, Nose, and Throat Surgical Devices

§ 874.4100 Epistaxis ballon.

(a) *Identification.* An epistaxis ballon is a device consisting of an inflatable balloon intended to control internal nasal bleeding by exerting pressure against the sphenopalatine artery.

(b) *Classification.* Class I (general controls).

§ 874.4140 Ear, nose, and throat bur.

(a) *Identification.* An ear, nose, and throat bur is a device consisting of an interchangeable drill bit that is intended for use in an ear, nose, and throat electric or pneumatic surgical drill (§ 874.4250) for incising or removing bone in the ear, nose, or throat area. The bur consists of a carbide cutting tip on a metal shank or a coating of diamond on a metal shank. The device is used in mastoid surgery, frontal sinus surgery, and surgery of the facial nerves.

(b) *Classification.* Class II (performance standards).

§ 874.4175 Nasopharyngeal catheter.

(a) *Identification.* A nasopharyngeal catheter is a device consisting of a bougie or filiform catheter that is intended for use in probing or dilating the eustachian tube. This generic type of device includes eustachian catheters.

(b) *Classification.* Class I (general controls).

§ 874.4250 Ear, nose, and throat electric or pneumatic surgical drill.

(a) *Identification.* An ear, nose, and throat electric or pneumatic surgical drill is a rotating drilling device, including the handpiece, that is intended to drive an ear, nose, and throat bur (§ 874.4140) for the controlled incision or removal of bone in the ear, nose, and throat area.

(b) *Classification.* Class II (performance standards).

§ 874.4350 Ear, nose, and throat fiberoptic light source and carrier.

(a) *Identification.* An ear, nose, and throat fiberoptic light source and carrier is an AC-powered device that generates and transmits light through glass or plastic fibers and that is intended to provide illumination at the tip of an ear, nose, or throat endoscope. Endoscopic devices which utilize fiberoptic light sources and carriers include the bronchoscope, esophagoscope, laryngoscope, mediastinoscope, laryngeal-bronchial telescope, and nasopharyngoscope.

(b) *Classification.* Class II (performance standards).

§ 874.4400 Bronchial, tracheal, or esophageal surgical instrument.

(a) *Identification.* A bronchial, tracheal, or esophageal surgical instrument is a device intended for use in surgical procedures to examine or treat the bronchus, esophagus, or trachea. This generic type of device includes the esophageal dilator, tracheal bistoury (a long, narrow surgical knife), tracheal dilator, and tracheal hook.

(b) *Classification.* Class II (performance standards).

§ 874.4410 Surgical instrument for the ear.

(a) *Identification.* A surgical instrument for the ear is a device intended for use in surgical procedures to examine or treat the ear. This generic type of device incudes the ear curette, ear excavator, ear rasp, ear scissor, ear snare, ear spoon, ear suction tube, malleus nipper, mastoid gauge, mastoid rongeur, mastoid searcher, ear measuring rod, measuring gauge, microsurgical ear hook, microsurgical ear pick, middle ear chisel, myringotomy tube inserter, ossicle holding clamp, sacculotomy tack inserter, vein press, and wire ear loop.

(b) *Classification.* Class II (performance standards).

§ 874.4420 Ear, nose, and throat multiple-use surgical instrument.

(a) *Identification.* An ear, nose, and throat multiple-use surgical instrument is one of a variety of devices intended for use in surgical procedures involving the ear, nose, or throat. This generic type of device includes microrule mirror; mobilizer; ear, nose, and throat punch; ear, nose, and throat knife; and ear, nose, and throat trocar.

(b) *Classification.* Class II (performance standards).

§ 874.4430 Laryngeal surgical instrument.

(a) *Identification.* A laryngeal surgical instrument is a device intended for use in surgical procedures to examine or treat the larynx. This generic type of device includes the laryngeal injection set, laryngeal knife, laryngeal saw, laryngeal trocar, and laryngectomy tube.

(b) *Classification.* Class II (performance standards).

§ 874.4440 Pharyngeal surgical instrument.

(a) *Identification.* A pharyngeal surgical instrument is a device intended for use in surgical procedures to examine or treat the pharynx. This generic type of device includes the adenoid curette, adenotome, metal

tongue depressor, mouth gag, oral screw, salpingeal curette, tonsillectome, tonsil guillotine, tonsil screw, tonsil snare, tonsil suction tube, and tonsil suturing hook.

(b) *Classification.* Class II (performance standards).

§ 874.4450 Nasal and paranasal sinus surgical instrument.

(a) *Identification.* A nasal and paranasal sinus surgical instrument is a device intended for use in surgical procedures to examine or treat the nasal or paranasal sinuses. This generic type of device includes the antrum perforator, ethmoid curette, frontal sinus-rasp, nasal curette, nasal rasp, nasal rongeur, nasal saw, nasal scissors, nasal snare, sinus irrigator, and sinus trephine.

(b) *Classification.* Class II (performance standards).

§ 874.4500 Ear, nose, and throat microsurgical carbon dioxide laser product.

(a) *Identification.* An ear, nose, and throat microsurgical carbon dioxide laser product is a laser device intended for the surgical excision of tissue from the ear, nose, and throat area. The device is used, for example, in microsurgical procedures to excise lesions and tumors of the vocal cords and adjacent areas.

(b) *Classification.* Class II (performance standards).

§ 874.4680 Bronchoscope (flexible or rigid).

(a) *Identification.* A bronchoscope (flexible or rigid) is a tubular endoscopic device intended to examine or treat, under fiberoptic illumination, the tracheobronchial tree. This generic type of device includes the rigid ventilating bronchoscope, rigid nonventilaing bronchoscope, and nonrigid bronchoscope. The device is made of materials such as stainless steel or flexible plastic.

(b) *Classification.* Class II (performance standards).

§ 874.4685 Ear, nose, and throat endoscopic accessory.

(a) *Identification.* An ear, nose, and throat endoscopic accessory is one of a group of diagnostic or therapeutic devices intended for use as attachments to laryngoscopes, bronchoscopes, laryngeal-bronchial telescopes, nasopharyngoscopes, esophagoscopes, or mediastinoscopes in the aerodigestive tract. This generic type of device includes the flexible foreign body claw, bronchoscope tubing, flexible biopsy forceps, rigid biopsy curette, flexible biopsy brush, rigid biopsy forceps, flexible biopsy curette, and rigid bronchoscope aspirating tube, but excludes fiberoptic light sources and carriers.

(b) *Classification.* Class II (performance standards).

§ 874.4710 Esophagoscope (flexible or rigid).

(a) *Identification.* An esophagoscope (flexible or rigid) is a tubular endoscopic device that is used to examine or treat, under fiberoptic illumination, esophageal malfunction symptoms, esophageal or mediastinal disease, or to remove foreign bodies from the esophagus. When inserted, the device extends from the area of the hypopharynx to the stomach. It is typically used with ear, nose, and throat endoscopic accessories and with fiberoptic light sources and carriers to provide illumination for viewing the esophageal mucosa. The device is made of materials such as stainless steel or flexible plastic.

(b) *Classification.* Class II (performance standards).

§ 874.4720 Mediastinoscope.

(a) *Identification.* A mediastinoscope is a tubular tapered electrical endoscopic device that is used to examine or treat, under fiberoptic illumination, tissue in the area separating the lungs. The device is used in diagnosis of tumors and lesions and to determine whether excision of certain organs or tissues is indicated. The device is made of material such as stainless steel.

(b) *Classification.* Class II (performance standards).

§ 874.4750 External laryngostroboscope.

(a) *Identification.* An external laryngostroboscope is a device that is used to observe glottic action during phonation. The device operates by directing a stroboscopic light through a lens for reflected viewing of glottic action. The device does not contact the patient. It uses a mirror to direct light into the patient and an external noncontact microphone to pick up acoustic signals from the glottic area.

(b) *Classification.* Class I (general controls).

§ 874.4755 Larynogostroboscope (patient-contacting).

(a) *Identification.* A laryngostroboscope (patient-contacting) is a device that is used to observe glottic action during phonation. The device operates by focusing a stroboscopic light through a lens for direct viewing of glottic action. The fiberoptic carriers that serve to direct light into the patient and the microphone that amplifies acoustic signals generated from the glottic area may contact the patient.

(b) *Classification.* Class II (performance standards).

§ 874.4760 Nasopharyngoscope (flexible or rigid).

(a) *Identification.* A nasopharyngoscope (flexible or rigid) is a tubular endoscopic device that is used to examine or treat, under fiberoptic illumination, the nasal cavity and nasal pharynx. The device is made of materials such as stainless steel and flexible plastic. This generic type of device includes the antroscope, nasopharyngolaryngoscope, nasosinuscope, nasoscope, postrhinoscope, rhinoscope, and salpingoscope.

(b) *Classification.* Class II (performance standards).

§ 874.4770 Otoscope.

(a) *Identification.* An otoscope is a device used to inspect the external ear canal and tympanic membrane under magnification. The device provides illumination of the ear canal for observation by using an AC- or battery-powered light source and an optical magnifying system.

(b) *Classification.* Class II (performance standards).

§ 874.4780 Laryngeal-bronchial telescope.

(a) *Identification.* A laryngeal-bronchial telescope is a tubular endoscopic device that is used to examine the larynx and bronchial tree tissue structure under fiberoptic illumination and optical magnification. The device is made of materials such as stainless steel and flexible plastic.

(b) *Classification.* Class II (performance standards).

§ 874.4900 Tracheostomy tube.

(a) *Identification.* A tracheostomy tube is a device that is placed into a surgical opening of the trachea to facilitate the passage of air to the lungs. The device is made of either stainless steel or rigid plastic.

(b) *Classification.* Class II (performance standards).

§ 874.4910 Tracheal tube cleaning brush.

(a) *Identification.* A tracheal tube cleaning brush is a device consisting of a brush with plastic bristles intended to clean tracheal cannula devices after their removal from patients.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180,

with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 874.4920 Tracheostomy tube cuff.

(a) *Identification.* A tracheostomy tube cuff is a device intended to establish a seal between the tracheal wall and a tracheostomy tube by means of an inflatable cuff surounding the tracheostomy tube, the device is used to improve aspiration or to provide a method for positive-pressure breathing.

(b) *Classification.* Class II (performance standards).

Subpart F—Ear, Nose, and Throat Therapeutic Devices

§ 874.5220 Ear, nose, and throat drug administration device.

(a) *Identification.* An ear, nose, and throat drug administration device is one of a group of ear, nose, and throat devices intended specifically to administer medicinal substances to treat ear, nose, and throat disorders. These instruments include the powder blower, dropper, ear wick, manual nebulizer pump, and nasal inhaler.

(b) *Classification.* Class I (general controls). If the device is not labeled or otherwise represented as sterile, it is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180 with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 874.5300 Ear, nose, and throat examination and treatment unit.

(a) *Identification.* An ear, nose, and throat examination and treatment unit is an AC-powered device intended to support a patient during an otologic examination while providing specialized features for examination and treatment. The unit consists of a patient chair and table, drawers for equipment, suction and blowing apparatus, and output receptacles for connection of specialized lights and examining instruments.

(b) *Classification.* Class II (performance standards).

§ 874.5350 Suction antichoke device.

(a) *Identification.* A suction antichoke device is a device intended to be used in an emergency situation to remove, by the application of suction, foreign objects that obstruct a patient's airway to prevent asphyxiation of the patient.

(b) *Classification.* Class III (premarket approval).

§ 874.5370 Tongs antichoke device.

(a) *Identification.* A tongs antichoke device is a device that is intended to be used in an emergency situation to grasp and remove foreign objects that obstruct a patient's airway to prevent asphyxiation of the patient. This generic type of device includes a plastic instrument with serrated ends that is inserted into the airway in a blind manner to grasp and extract foreign objects, and a stainless steel forceps with spoon ends that is inserted under tactile guidance to grasp and extract foreign objects from the airway.

(b) *Classification.* Class III (premarket approval).

§ 874.5550 Power nasal irrigator.

(a) *Identification.* A powered nasal irrigator is an AC-powered device intended to wash the nasal cavity by means of a pressure-controlled, pulsating stream of water. The device consists of a control unit and pump connected to a spray tube and nozzle.

(b) *Classification.* Class II (performance standards).

§ 874.5800 External nasal splint.

(a) *Identification.* An external nasal splint is a rigid or partially rigid device intended for use externally for immobilization of parts of the nose.

(b) *Classification.* Class I (general controls).

§ 874.5840 Antistammering device.

(a) *Identification.* An antistammering device is a device that electronically generates a noise when it senses the user's speech and that is intended to prevent the user from hearing the sounds of his or her own voice. The device is used to minimize a user's involuntary hesitative or repetitive speech.

(b) *Classification.* Class II (performance standards).

§ 874.5850 Transdermal stimulator.

(a) *Identification.* A transdermal stimulator is an electrical device that is intended to improve speech discrimination in hearing-impaired persons by introducing electromagnetic energy through electrodes positioned on the scalp.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before March 23, 1982, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments regarding the general provisions are to be identified with the docket number found in brackets in the heading of this document. Comments regarding a particular device are to be identified with the docket number for that device found in the "Panel Recommendations and FDA's Proposed Classifications" section. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has carefully analyzed the economic effects of this proposed rule and has determined that, if promulgated, the rule wil not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act. In accordance with section 3(g)(1) of Executive Order 12291, the impact of this proposed rule has been carefully analyzed, and it has been determined that this proposal does not constitute a major rule as defined in section 1(b) of the Executive Order. Rules proposing classification of devices into class I generally maintain the status quo: These devices are now subject to only the general controls provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, and 360j) and, under the proposed rules, would remain subject only to such controls either in their entirety or with certain exemptions. Devices classified into class II would also remain subject only to the general controls provisions of the act unless and until an applicable performance standard were established. Similarly, devices classified into class III remain subject only to the general controls provisions of the act until an additional regulation is promulgated pursuant to section 515(b) of the act (21 U.S.C. 360e(b)) requiring that such devices have in effect approved applications for premarket approval. In accordance with section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)), devices classified by regulation into class III may remain in commercial distribution without an approved premarket approval application for 30 months following the effective date of classification of the device into class III, or for 90 days following the promulgation of a regulation under section 515(b) of the act (21 U.S.C. 360e(b)), whichever occurs later. In sum, device classification rules do not have a significant impact on a substantial number of small entities and are not major rules.

Dated: December 16, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82–1437 Filed 1–21–82; 8:45 am]

BILLING CODE 4160–01–M

federal register

Friday
January 22, 1982

Part IV

Department of Education

Financial Assistance for School Expenditures and Construction in Cases of Certain Disasters; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Parts 219 and 220

Financial Assistance for School Expenditures and Construction in Cases of Certain Disasters

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues regulations governing financial assistance to local educational agencies (LEAs) that are damaged by certain disasters. These are disasters the President has determined to be major disasters, and other disasters—referred to in these regulations as "pinpoint disasters"—for which the Secretary determines to provide assistance. At this time, however, no funds are available for pinpoint disaster assistance; therefore, the Secretary is accepting applications only from those LEAs that are damaged by a disaster that the President has determined to be major. These regulations are a revision of existing ones and meet the need to have regulations that are clear, concise and easily understood. They reflect changes made as a result of a management review of the disaster assistance program.

EFFECTIVE DATE: Unless Congress takes certain adjournments, these regulations will take effect 45 days after publication in the **Federal Register.** If you want to know the effective date of these regulations, call or write the Department of Education contact person. At a future date the Secretary will publish a notice in the **Federal Register** stating the effective date of these regulations.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Schneider, Division of Impact Aid, U.S. Department of Education, 400 Maryland Avenue SW (Room 2113, FOB–6), Washington, D.C. 20202. Telephone: (202) 245–8412.

SUPPLEMENTARY INFORMATION:

Background

These regulations are a revision of existing ones and meet the need to have regulations that are clear, concise and easily understood. They reflect changes made as a result of a management review of the disaster assistance program and in response to comments received on a notice of proposed rulemaking (NPRM) published on June 29, 1979 (44 FR 38184).

Public Participation

In connection with these and other proposed rules published in the **Federal Register** on June 29, 1979, public meetings were held during August 1979 in each of the 10 regional office cities and in Pierre, South Dakota, Phoenix, Arizona and San Juan, Puerto Rico. There was also a 60 day period for the submission of comments. No comments were made on these proposed rules at the public meetings. One letter with comments was received from Congressman Perkins. The written comments and the response of the Secretary are summarized in the appendix to the regulations.

Summary of Changes From the Notice of Proposed Rulemaking

These regulations reflect some wording changes to promote clarity and ease of understanding.

In response to comments from Congressman Perkins, the final regulations contain some provisions that were not in the NPRM. These include certain provisions of the statutes governing this program which will enable applicants and grantees to better understand program requirements without having to refer to the statute.

Also, in response to comments, some provisions in the NPRM have been changed, clarified, or deleted.

The following sections of the final regulations summarize in greater detail the substantive changes made from the NPRM. Specific responses to comments received on the NPRM (45 CFR Part 112, redesignated as 34 CFR Part 219) are published in the appendix to these final regulations.

1. *Section 219.12(a)(3) Repair of school facilities.* This section now expands the definition of "minor repairs" to include both the restoration or replacement of any facility having no major structural element that is damaged in excess of 30 percent, and any total restoration or replacement whose cost is not more than $100,000.

2. *Section 219.15 Restoration or replacement of school facilities.* This section has been clarified and, in addition, has been changed to provide that facilities being constructed by an LEA—but not yet in use or accepted from the builder—may be restored or replaced with Federal assistance in the event these facilities are damaged by a disaster.

3. *Section 219.33(c)(2) Applications for situations in which it is unnecessary to relocate students.* This section has been expanded to provide that if an LEA's bond capacity is not limited by statute, the Secretary considers this capacity to be limited to 12 percent of the LEA's assessed valuation of real property.

4. *Section 219.41(b)(2) Use of equipment owned by a grantee.* This section of the proposed rules has been deleted. The use of a grantee's equipment during recovery from a disaster is not considered an eligible cost under the disaster assistance program.

5. *Section 219.41(d) Effect of insurance coverage.* This section has been changed to state that eligible costs include only the amount of an LEA's expenses exceeding any insurance proceeds available to the LEA. This rule now applies to LEAs that have experienced either a major or a pinpoint disaster.

6. *Section 219.42(b)(3)(ii) Eligible costs.* This section has been revised to clarify that an LEA may build a gymnasium or auditorium with a capacity exceeding its membership if the LEA pays all costs associated with the increased capacity. This is stated in § 219.42(b)(1)(iii) in the final regulations.

7. *Section 219.42(d) Effect of insurance coverage.* This section has been changed to parallel the change made in § 219.41(d).

Executive Order 12291

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to these regulations because the NPRM was published before January 1, 1981, the effective date of the Act.

Citation of Legal Authority

A citation of statutory or other legal authority for each section is placed in parentheses on the line following each substantive provision.

(Catalog of Federal Domestic Assistance Number 84.040, School Assistance in Federally Affected Areas—Construction, and 84.041, School Assistance in Federally Affected Areas—Maintenance and Operation)

Dated: January 18, 1982.

Approved: January 18, 1982.

T. H. Bell,

Secretary of Education.

The Secretary amends 34 CFR Parts 219 and 220 of Title 34 of the Code of Federal Regulations as follows:

PART 220 [REVOKED]

1. By revoking Part 220.

2. By revising Part 219 to read:

PART 219—ASSISTANCE FOR SCHOOL EXPENDITURES AND CONSTRUCTION IN CASES OF CERTAIN DISASTERS

Subpart A—General

Sec.
219.1 Disaster assistance program.
219.2 Eligible parties.
219.3 Regulations that apply to the disaster assistance program.
219.4 Definitions.

Subpart B—Kinds of Projects Assisted Under This Program

219.11 Replacement of instructional and maintenance supplies, equipment, and materials.
219.12 Payment for minor repairs.
219.13 Provision of needed temporary school facilities.
219.14 Payment of increased current operating expenses and replacement of lost revenues.
219.15 Restoration or replacement of school facilities.

Subpart C—How To Apply for Assistance

219.21 Application procedure.
219.22 State certification of applications.

Subpart D—How a Grant is Made

219.31 Review of an application: Consideration of other resources available to an applicant.
219.32 Consultation with the State educational agency.
219.33 Determination of priorities among eligible applications.

Subpart E—Eligible Costs

219.41 Eligible costs for assistance related to replacement of instructional and maintenance supplies, equipment, and materials; minor repairs; or provision of temporary school facilities (Section 7(b) of Pub. L. 81–874).
219.42 Eligible costs for restoration or replacement of school facilities (Section 16 of Pub. L. 81–815).

Subpart F—Hearings

219.51 Hearings relating to assistance for restoration or replacement of school facilities (Section 16 of Pub. L. 81–815).
219.52 Hearings relating to assistance other than restoration or replacement of school facilities (Sections 7(a) and 7(b) of Pub. L. 81–874).

Authority: Sec. 7 of Pub. L. 81–874 (20 U.S.C. 241–1) and sec. 16 of Pub. L. 81–815 (20 U.S.C. 646), as amended, unless otherwise noted.

Subpart A—General

§ 219.1 Disaster assistance program.

(a) *Purpose.* Under this program the Department of Education provides financial assistance to local educational agencies (LEAs) that have been afflicted by certain disasters. This assistance is authorized by section 7 of Pub. L. 81–874 (Financial Assistance for Local Educational Agencies in Areas Affected by Federal Activity) and by Section 16 of Pub. L. 81–815 (School Construction in Areas Affected by Federal Activities). These two laws are referred to in this part as "the Acts." Assistance may include—

(1) Replacement of instructional and maintenance supplies, equipment, and materials;

(2) Payment for minor repairs;

(3) Provision of needed temporary facilities not including the acquisition of land or the erection of facilities;

(4) Additional assistance necessary to provide free public education, such as payment of increased current operating expenses and replacement of lost revenues; and

(5) Restoration or replacement of seriously damaged or destroyed school facilities.

(b) *Limits on assistance.* Assistance is limited to a reasonable amount of an LEA's expenses resulting from the disaster. The Secretary of Education determines the allowable amount of assistance after considering other resources available to the LEA.

(20 U.S.C. 241–1 (a), (b), 646(a))

§ 219.2 Eligible parties.

An LEA may apply for assistance if it meets these conditions:

(a)(1) *Occurrence of a disaster.* The President declares a major disaster encompassing an area in which part or all of the LEA is located; or

(2) The school facilities of the LEA have been seriously damaged or destroyed by a smaller disaster that the LEA requests the Secretary to declare as a pinpoint disaster.

(b) *Financial need.* As a result of the disaster, and in order to provide free public education to the children it serves, the LEA requires assistance of at least—

(1) $1,000; or

(2) One-half of one percent of its current operating expenses for the fiscal year preceding the fiscal year in which the disaster occurred, whichever is less.

(20 U.S.C. 241–1 (a), (b), 646(a))

§ 219.3 Regulations that apply to the disaster assistance program.

The following regulations apply to the disaster assistance program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and Part 77 (Definitions); except for these sections of EDGAR that do not apply to this program:

(1) 34 CFR 75.113 (Describe the key personnel).

(2) 34 CFR 75.115 (Describe the evaluation plan).

(3) 34 CFR 75.217–75.222 (Discretionary grant selection procedures).

(4) 34 CFR 75.603 (Grantee's title to site).

(b) General Regulations for Administration of Grants (34 CFR Part 74), which are incorporated by reference in EDGAR, except for these sections of Part 74 that do not apply to this program:

(1) 34 CFR 74.94 (Payment methods under construction grants).

(2) Subpart O (Property).

(c) The regulations in this Part 219.

§ 219.4 Definitions.

(a) *Terms defined in EDGAR.* (1) The following terms used in this part are defined in 34 CFR Part 77:

Applicant
Application
Award
EDGAR
Project
Secretary

(2) The following terms used in this part are defined in General Regulations for Administration of Grants (34 CFR Part 74), which are incorporated by reference in EDGAR:

Grant
Grantee
Supplies

(b) *Terms defined by statute.* The following terms used in this part are defined in the Acts:

Child
Construct, Constructing, Construction
Equipment
Free public education
Local educational agency (LEA)
School facilities
State
State educational agency (SEA)

(c) *Terms defined in this part.* As used in this part, these terms have the following definitions:

"Acts" means Pub. L. 815, 81st Congress (64 Stat. 967), as amended, and Pub. L. 874, 81st Congress (64 Stat. 1100), as amended.

(20 U.S.C. 236–244, 631–647)

"Latent damages" means damages that are caused by a disaster but that become apparent only after an LEA has applied for a grant.

(20 U.S.C. 241–1(a), (b), 646(a))

"Major disaster" means a disaster the President determines to be, or threatens

to be, of sufficient severity and magnitude to warrant Federal disaster assistance. The disaster may result from flood, drought, fire, hurricane, earthquake, storm, or from some other catastrophe.

(20 U.S.C. 241–1(a)(1)(A), 646(a)(1)(A))

"Membership" means—

(1) The number of children in the membership of a school according to State law; or

(2) If no State law governs membership, the number of children who are listed on the school's current roll of pupils and who have not permanently left the school or become otherwise ineligible to attend classes there.

(3) An exception to the general rule stated in paragraphs (a) and (b) of this section applies if a child resides in the district of one LEA but attends school in the district of another under a tuition arrangement in which the LEA in whose district the child resides reimburses the other LEA. In these cases the child is considered to be a member in the LEA in which the child resides, unless the Secretary approves an agreement between the LEAs that the child will be recorded as a member in the LEA in which it attends school.

(20 U.S.C. 645(5))

"Minimum school facilities" means those facilities that the Secretary, after consultation with the SEA and LEA, considers necessary for an LEA's educational mission and for which Federal assistance may be provided. Generally, these are facilities—such as classrooms, auxiliary rooms, and initial equipment, machinery, and utilities—that support an educational program for the LEA's membership at normal capacity and in accordance with the laws and common practice in the State.

(20 U.S.C. 645(9), (10))

"Normal capacity" means the number of pupils that a school facility accommodates under ordinary conditions according to the laws and common practice of the State.

(20 U.S.C. 634, 645(9), (10))

"Pinpoint disaster" means a disaster the Secretary determines to have destroyed or seriously damaged an LEA's school facilities. The disaster may result from flood, fire, hurricane, earthquake, storm, or from some other catastrophe but may not result from negligence or malicious action.

(20 U.S.C. 241–1 (a)(1)(B), 646(a)(1)(B))

Subpart B—Kinds of Projects Assisted Under This Program

§ 219.11 Replacement of instructional and maintenance supplies, equipment, and materials.

The Secretary may authorize assistance to replace instructional and maintenance supplies, equipment, and materials—including text-books—that have been seriously damaged or destroyed as a result of a disaster (Sec. 7(b) of Pub. L. 81–874).

(20 U.S.C. 241–1(b))

§ 219.12 Payment for minor repairs.

The Secretary may authorize assistance for payment for minor repairs (Section 7(b) of Pub. L. 81–874).

(a) *Repair of school facilities.* Repair of a school facility is considered minor if the repair—

(1) Relates to an architectural, mechanical, or structural element of the facility, or to its site, grading, or surrounding improvements;

(2) Restores a portion of the facility to a condition similar to its condition before the disaster; and

(3)(i) Replaces no more than 30 percent of any one major structural element, such as a load-bearing wall or roof truss, that supports the weight of the facility; or

(ii) Replaces more than 30 percent of a major structural element but has a total cost of no more than $100,000.

(b) *Use of funds for construction.* (1) An LEA may choose to apply grant funds available for minor repairs to a damaged school facility to the razing of that facility and the construction of a new facility similar to the damaged facility.

(2) The LEA must pay all additional costs associated with its choice to construct a new facility rather than to repair the damaged facility.

(c) *Repair of equipment and materials.* (1) Repair of equipment and materials is considered minor if the repair costs less than replacement of the equipment and materials.

(2)(i) Unless the following exception applies, an LEA must repair rather than replace damaged equipment and materials if this repair is minor.

(ii) Exception: an LEA may choose to apply grant funds available for minor repairs to damaged equipment and materials to the purchase of new equipment and materials if the LEA pays all additional costs associated with that choice.

(20 U.S.C. 241–1(b), 244(13), (14))

§ 219.13 Provision of needed temporary school facilities.

The Secretary may authorize assistance for the provision of needed temporary school facilities (section 7(b) of Pub. L. 81–874).

(a) *Means of furnishing temporary school facilities.* Assistance may include the cost of—

(1) Purchasing equipment necessary to operate temporary facilities;

(2) Converting remaining portions of school facilities into classrooms and cafeteria facilities;

(3) A lease on temporary alternative school facilities for a period of time necessary to repair, restore, or replace permanent school facilities; or

(4) Lease or purchase, whichever cost is less, of temporary portable school facilities for a period of time necessary to repair, restore, or replace permanent school facilities if conversion of remaining facilities or lease of temporary alternative facilities is not practical.

(b) *Prohibition of permanent arrangements.* Assistance may not include the acquisition of land or the erection of facilities.

(20 U.S.C. 241–1(b))

§ 219.14 Payment of increased current operating expenses and replacement of lost revenues.

The Secretary may authorize assistance necessary to provide free public education, such as payment for increased current operating expenses and replacement of lost revenues (section 7(a) of Pub. L. 81–874).

(a) *Limits on assistance.* Assistance may not exceed an amount necessary to permit an LEA to provide a level of education equivalent to that maintained in its schools before the disaster.

(b) *Prohibition of unrelated expenses.* Assistance may not include—

(1) Elimination from the LEA's budget of a deficit balance preceding the disaster; or

(2) Creation for the LEA's budget of a carryover balance following the disaster.

(c) *Five years is the maximum period of assistance.* The Secretary provides assistance—for operating expenses or replacement of lost revenues—for no more than five consecutive fiscal years, beginning with the fiscal year in which the disaster is declared.

(d) *Diminishing amount of assistance available during the five-year period.* The maximum amount of assistance for which an LEA is eligible to apply diminishes during the five-year eligibility period as follows:

(1) Year of disaster—100 percent of eligible expenses.

(2) First year following disaster—100 percent of eligible expenses.

(3) Second year following disaster—75 percent of the amount provided in the first year following the disaster.

(4) Third year following disaster—50 percent of the amount provided in the first year following the disaster.

(5) Fourth year following disaster—25 percent of the amount provided in the first year following the disaster.

(e) *Private school children displaced by a major disaster.* (1) If a private school has been disrupted or impaired by a major disaster, assistance to an LEA may include an amount necessary to provide educational programs in which displaced children previously enrolled in the private school may attend and participate.

(2)(i) These programs must be under public auspices and administration.

(ii) No assistance is furnished for religious worship or instruction.

(20 U.S.C. 241–1(a))

§ 219.15 Restoration or replacement of school facilities.

(a) *Restoration or replacement.* The Secretary may authorize assistance for the restoration or replacement of seriously damaged or destroyed minimum school facilities (section 16 of Pub. L. 81–815).

(b) *Serious damage.* A school facility is considered to be seriously damaged if—

(1) It is necessary to restore or replace more than 30 percent of a major structural element, such as a load-bearing wall or roof truss, that supports the weight of the facility; and

(2) This restoration or replacement costs more than $100,000.

(c) *Limits on assistance.* Assistance is limited to those facilities that are necessary to operate a program of free public education for an LEA's membership at normal capacity in accordance with the laws and common practice of the State and, that prior to the disaster, were either—

(1) In use by the LEA; or

(2) Being constructed by the LEA.

(d) *Facilities for private school children displaced by a major disaster.* (1) In the case of a major disaster, minimum school facilities also include facilities necessary to serve displaced children previously enrolled in private school facilities that have been destroyed by the disaster and will not be replaced.

(2)(i) The LEA must be providing these children with educational programs they may attend and in which they may participate.

(ii) These programs must be under public auspices and administration.

(iii) No assistance is furnished for religious worship or instruction.

(20 U.S.C. 241–1(a), 646(a))

(e) *Damaged facilities.* For facilities seriously damaged but not destroyed, assistance is limited to the lesser of—

(1) The cost of restoring the facility; or

(2) The cost of replacing the facility.

(f) *Destroyed facilities.* For facilities that have been destroyed, assistance is limited to the lesser of—

(1) The cost of replacing the facility on the same site; or

(2) The cost of replacing the facility on another appropriate site.

(20 U.S.C. 646(a))

(g) *Excellence of architecture and design.* An LEA that restores or replaces a minimum school facility shall give appropriate consideration to excellence of architecture and design.

(20 U.S.C. 645(10)(A))

(h) *Access and use by handicapped persons.* An LEA that restores or replaces a minimum school facility shall ensure that all facilities constructed with assistance under this program provide appropriate access and use by handicapped persons.

(20 U.S.C. 645(10)(C))

Note.—Additional rules for determining the types of facilities that may be considered "minumum school facilities" are contained in § 219.42 of these regulations (Eligible costs for restoration or replacement of school facilities (Section 16 of Pub. L. 81–815)).

Subpart C—How To Apply for Assistance

§ 219.21 Application procedure.

(a) *Application requirement.* To be considered for assistance an LEA must file an application with the Secretary through its State educational agency (SEA).

Note.—Upon request, the Secretary supplies an LEA with an application and instructions for properly completing the application.

(b) *State certification: Closing date for filing.* The LEA shall submit its application to the SEA. The LEA shall ensure that the SEA certifies and transmits this material to the Secretary on or before a date 90 days after—

(1) The date of publication of a notice in the **Federal Register** that the President has declared a major disaster; or

(2) The date of the pinpoint disaster.

(c) *Change in information included in the application.* The LEA shall promptly inform the Secretary of any change in the information included in its application that would affect eligibility for assistance or the amount of a grant.

(d) *New application each year in certain cases.* In order to receive continuing assistance for payment of current operating expenses or replacement of lost revenues (Section 7(a) of Pub. L. 81–874), the LEA shall file a new application during—and for each—of the fiscal years following the initial application.

(20 U.S.C. 241–1(d), 636 (a), (b), 646(c))

§ 219.22 State certification of applications.

(a) *For major disasters.* The SEA's certification of an application related to a major disaster shall contain the following assurances on the authority of the Governor unless the Governor has previously filed these assurances with the Federal Emergency Management Agency:

(1) Assurance that the LEA is located in an area declared by the President as a major disaster area.

(2) Assurance of the LEA's need for Federal disaster assistance.

(3) Assurance that the State or one or more of its political subdivisions will expend an amount of funds the Secretary considers reasonable to assist the LEA.

(b) *For pinpoint disasters.* The SEA's certification of an application related to a pinpoint disaster shall contain a request from the Governor for assistance, accompanied by the following assurances:

(1) Assurance of the serious damage or destruction of the LEA's school facilities.

(2) Assurance of the LEA's need for Federal disaster assistance.

(3) Assurance that the State or one or more of its political subdivisions will expend an amount the Secretary considers reasonable to assist the LEA. The assurance must include a statement of the amount of funds available for expenditure.

(4) Assurance that the disaster site has been investigated by appropriate State or local officials who have determined—

(i) That the disaster was not caused by negligence or malicious action; or

(ii) If the cause of the disaster is unknown, that no evidence indicates the disaster was caused by negligence or malicious action.

(20 U.S.C. 241–1(a), (d), 646(a), (c))

Subpart D—How a Grant Is Made

§ 219.31 Review of an application: Consideration of other resources available to an applicant.

(a) *Review of application.* The Secretary reviews a properly completed application and considers other resources available to an applicant in order to determine the applicant's eligibility for assistance and the amount of assistance that would be reasonable.

(b) *Resources to be considered.* Other resources available to the applicant include, but are not limited to—

(1) State assistance;

(2) Local assistance;

(3) Federal assistance in addition to that provided under this program;

(4) Insurance proceeds; and

(5) Interest earned on resources listed in paragraph (a)(1) through (4) of this section.

(c) *Special rule in certain cases.* Other resources available to an applicant for assistance related to restoration or replacement of minimum school facilities (Section 16 of Pub. L. 81–815) also include—

(1) The proceeds of bonds voted specifically for restoration or replacement of a destroyed or seriously damaged facility; and

(2) The greater of—

(i) An amount the State requires an LEA to set aside in a related insurance program or mandatory reserve fund; or

(ii) All unobligated or unencumbered non-Federal funds that the Secretary determines have been set aside by the LEA in a related insurance program, monetary reserve fund, or other comparable fund.

(20 U.S.C. 241–1(a)(3), 646(a)(4)(5))

§ 219.32 Consultation with the State educational agency.

An application for assistance related to restoration or replacement of minimum school facilities (Section 16 of Pub. L. 81–815) is approved only if the Secretary, after consultation with the SEA, determines that the restoration or replacement—

(a) Relates exclusively to minimum school facilities; and

(b) Is not inconsistent with overall State plans respecting construction of school facilities.

(20 U.S.C. 645(10), 646(c))

§ 219.33 Determination of priorities among eligible applications.

(a) *General.* the Secretary funds eligible applications from appropriations provided by the Congress under the two respective Acts that authorize the program—Pub. L. 81–815 and Pub. L. 81–874. This results in these two separate appropriations:

(1) Funds that may be used for eligible applications that relate to the restoration or replacement of minimum school facilities (Pub. L. 81–815).

(2) Funds that may be used for all other eligible applications (Pub. L. 81–874).

Note.—In certain cases, Congress appropriates funds that may be used to fund only certain types of eligible applications. For example, in recent fiscal years, Congress has appropriated funds for LEAs damaged by major disasters but has not appropriated funds for LEAs damaged by pinpoint disasters.

(b) *Funding of eligible applications.* Normally, the Secretary awards a grant to each application of a type for which Congress has appropriated funds as soon as the Secretary determines the application is eligible for payment. However, if the funds Congress appropriates are insufficient to fund all of a number of applications that are potentially eligible, the Secretary awards as many grants as possible according to the priorities described in this section.

(20 U.S.C. 646(c), 241–1(d))

(c) *Priorities for applications related to restoration or replacement of school facilities.* If the amount of funds appropriated for eligible applications that relate to restoration or replacement of minimum school facilities is insufficient to permit the award of a grant to all these applications, the Secretary awards as many grants as possible in the following order of priority:

(1) *Applications for situations in which students must be relocated.* First the Secretary funds those applications that relate to situations in which an LEA must relocate students because of a disaster.

(i) The Secretary determines relative priority among these applications by computing for each application the following percentage, then ranking applications in descending order of priority from the highest to the lowest computed percent:

$$\frac{\text{Number of students requiring relocation}}{\text{LEA's total current membership}}$$

(ii) If an application relates to a major disaster as a result of which private school students require relocation, the percentage in paragraph (c)(1)(i) of this section is computed by including these students both in the number of students requiring relocation and in the LEA's total current membership.

(2) *Applications for situations in which it is unnecessary to relocate students.* After the Secretary funds applications requiring the relocation of students, the Secretary funds remaining applications. The Secretary determines relative priority among these remaining applications by computing for each application the following percentage, then ranking applications in descending order of priority from the highest to the lowest computed percent:

$$\frac{\text{Estimated Federal assistance required for the project described in the application}}{\text{Estimated unused bond capacity of the LEA on the date of the disaster}}$$

(If the LEA's bond capacity is not limited by statute, the Secretary considers this capacity to be limited to 12 percent of the LEA's assessed valuation of real property)

(20 U.S.C. 646(c))

(d) *Priorities for applications not related to restoration or replacement of school facilities.* If the amount of funds appropriated for eligible applications that do not relate to restoration or replacement of minimum school facilities is insufficient to permit the award of a grant to all these applications, the Secretary awards as many grants as possible in the order of priority established by this method:

(1) The Secretary computes for each application the following percentage:

$$\frac{\text{Estimated Federal assistance required for the project described in the application}}{\text{The LEA's current operating expenses for the fiscal year preceding the disaster}}$$

(2) Applications are then ranked in descending order of priority from the highest to the lowest computed percent.

(20 U.S.C. 241–1(d))

Subpart E—Eligible Costs

§ 219.41 Eligible costs for assistance related to replacement of instructional and maintenance supplies, equipment, and materials; minor repairs; or provision of temporary school facilities (Section 7(b) of Pub. L. 81–874).

(a) *Secretary's approval.* A grantee may apply grant funds only to—

(1) Costs that the Secretary approves in advance; or

(2) Costs that the Secretary approves retroactively because they were necessarily incurred as emergency measures immediately prior to, during, or subsequent to a disaster.

(b) *Eligible costs.* Among the costs the Secretary approves as eligible for payment are reasonable costs related to the following items:

(1) *Preventive work.* Preventive work done on or immediately adjacent to a school site in anticipation of or during the disaster, if the work could

reasonably have been expected to minimize damage.

(2) *Work performed by a grantee's maintenance employees.* Work must be related to the disaster and performed by a grantee's maintenance employees in addition to—not in place of—their regular duties.

(3) *Installation of utilities.* Installation costs for utilities in temporary or leased facilities.

(4) *Replacement of equipment.* (i) Assistance in replacing movable equipment—including vehicles—if the equipment, when purchased, was essential to school operations, and if it would cost more to repair the equipment than to replace it.

(ii) If a school bus is being replaced, the Secretary determines the amount of assistance by deducting from the cost of replacement the salvage value of the bus and any available insurance proceeds and State transportation assistance.

(5) *Off-site work.* Off-site work to permit emergency access to damaged school facilities, if the work is consistent with State law and is not the responsibility of another unit of local government.

(6) *Trees, shrubs, and ground cover.* Replacement of trees and shrubs by the size of plantings customarily made on the site of new school facilities in the State, and of ground cover by seeding, unless sod is the only effective replacement.

(7) *Architectural and engineering fees.* Architectural and engineering fees that relate to a repair or replacement authorized by the program.

(8) *Repair of school facilities under construction or renovation and of those that are temporary or obsolete.* (i) Repair of school facilities that, at the time of the disaster, were under construction or revnovation, if the cost of repair is not covered by insurance.

(ii) Temporary or obsolete facilities may be repaired unless prior to the disaster the LEA took formal action to replace them.

(9) *Repair of school facilities damaged during disaster recovery.* Repair of school facilities necessarily damaged during disaster recovery activities to reestablish school operations.

(10) *Temporary facilities.* Provision of temporary facilities, including the purchase of necessary operating equipment.

(11) *Insurance on temporary portable classroom units that are purchased by the grantee.*

(12) *Necessary demolition of facilaities and removal of debris.*

(13) *Emergency repairs to prevent further damage to a facility or to make it immediately available for education.*

(20 U.S.C. 241–1(a)(b))

(c) *Ineligible costs.* The Secretary does not approve any costs related to the following:

(1) Acquisition of land.

(2) A gymnasium, stadium, or similar facility primarily intended for events that include an admission charge to the general public.

(3) Latent damages not reported to the Secretary within six months of the date the Secretary receives the LEA's application.

(20 U.S.C. 241–1(b), 244(13))

(d) *Effect of insurance coverage.* (1) Eligible costs include only the amount of the LEA's expenses that exceeds any insurance proceeds on the damaged or destroyed supplies, equipment, materials, and facilities.

(2) A grantee shall prosecute insurance claims promptly and fully.

(20 U.S.C. 241–1(a)(b))

§ 219.42 Eligible costs for restoration or replacement of school facilities (Section 16 of Pub. L. 81–815).

(a) *Secretary's approval.* A grantee may apply grant funds only to items described in its project application that the Secretary approves as eligible for payment.

(b) *Eligible costs.* (1) The Secretary approves reasonable costs to restore or replace any of the following minimum school facilities to a condition similar to that before the disaster:

(i) Classrooms and related facilities.

(ii) Fixed equipment, machinery, and utilities.

(iii) (A) An auditorium or gymnasium or both if it is justified by the size and educational program of the LEA and by standards and practices in the State.

(B) The capacity of the facility may exceed the membership of the school only if the LEA pays all additional costs associated with the increased capacity.

(iv) Air conditioning if it is justified by standards and practices in the State.

(2) The Secretary also approves reasonable costs related to the following items:

(i) Works of art—if their cost does not exceed one percent of a project's cost.

(ii) Design features that provide appropriate access and use by handicapped persons.

(iii) Design features that afford appropriate protection against personal injuries from future disasters.

(c) *Ineligible costs.* The Secretary does not approve any costs related to—

(1) Purchase of an interest in land;

(2) Off-site improvements;

(3) A gymnasium, stadium, or similar facility primarily intended for events that include an admission charge to the general public; or

(4) Emergency repairs to prevent further damage to a facility or to make it immediately available for education.

Note, however, that these costs related to emergency repairs are eligible under § 219.41(b)(13) *(Eligible costs for assistance related to replacement of instructional and maintenance supplies, equipment, and materials; minor repairs; or provision of temporary facilities (Section 7(b) of Pub. L. 81–874)).*

(5) Latent damages not reported to the Secretary within six months of the date the Secretary receives the LEA's application.

(20 U.S.C. 645(9)(10), 646(a))

(d)(1) *Effect of insurance coverage.* Eligible costs include only the amount of the LEA's expenses that exceeds any insurance proceeds on the damaged or destroyed facilities.

(2) A grantee shall prosecute insurance claims promptly and fully.

(20 U.S.C. 646(a))

Subpart F—Hearings

§ 219.51 Hearings relating to assistance for restoration or replacement of school facilities (Section 16 of Pub. L. 81–815).

(a) *Right to an administrative hearing.* This section applies to an LEA that is an applicant or grantee for assistance for restoration or replacement of school facilities. This LEA has a right to an administrative hearing in either or both of the following circumstances:

(1) If the Secretary proposes in whole or in part to disapprove the LEA's application.

(2) If, after a grant has been made, the Secretary acts to withhold payments to the LEA (the circumstances in which this occurs are specified in Section 11(a) of Pub. L. 81–815).

(b) *Hearing procedures.* The procedures described in 34 CFR Part 218 govern these administrative hearings.

(20 U.S.C. 636(c), 641(b))

§ 219.52 Hearings relating to assistance other than restoration or replacement of school facilities (Sections 7(a) and 7(b) of Pub. L. 81–874).

(a) *Right to an administrative hearing.* This section applies to an LEA that is an applicant or grantee for assistance for other than restoration or replacement of school facilities. This LEA has a right to an administrative hearing if an action of the Secretary affects the LEA adversely or aggrieves the LEA.

(b) *Hearing procedures.* The procedures described in Section 5(g) of Pub. L. 81–874 and in 34 CFR Part 218 govern these administrative hearings.

(20 U.S.C. 240(g))

Note.—This appendix will not appear in the Code of Federal Regulations.

Appendix

Summary of Comment and Responses

The following is a summary of comments received on a notice of proposed rulemaking (NPRM)—for School Assistance in Cases of Certain Disasters—published on June 29, 1979. Each comment is followed by a response that indicates any change that has been made or why no change is considered necessary. Specific comments are arranged in order of the sections of these final regulations to which they pertain.

§ 219.1 Disaster Assistance Program

Comment. One commenter asked why § 219.1(a)(3), which states that assistance may include provision of needed temporary facilities, omits a provision of Pub. L. 81–874 that says this form of assistance may not include acquisition of land or the erection of facilities.

Response. A change has been made to include this provision in § 219.1(a)(3).

Comment. One commenter noted that the law refers to "additional assistance necessary to provide free public education" and asked whether § 219.1(a)(4) limits this assistance to "payment of increased current operating expenses" and "replacement of lost revenues" that relate to free public education. The commenter also asked what is meant by replacement of lost revenues as distinguished from current operating expenses.

Response. A change has been made to clarify that the terms "payment of increased current operating expenses" and "replacement of lost revenues" illustrate, but do not restrict, the types of "additional assistance necessary to provide free public education" that are authorized by Section 7(a) of Pub. L. 81–874. "Replacement of lost revenues" refers to assistance made available to an LEA because the LEA's sources of funds have been impaired by a disaster. For example, an LEA may be severely harmed by the disaster-related destruction of taxable real property in its school district. This assistance may be necessary even if the LEA's "current operating expenses"—the costs related to running its schools—are not increased.

§ 219.2 Who May Apply for Assistance?

Comment. One commenter asked why § 219.2(b)(2) of the proposed rules omitted statutory provisions referring to "current" operating expenses and stating that only the lesser of the two monetary eligibility thresholds mentioned in this section must be met.

Response. A change has been made to include these statutory provisions in § 219.2(b)(2).

§ 219.4 Definitions

Comment. One commenter asked why the term "latent damages" must be defined in the regulations since it is not used in the law.

Response. No change has been made. The term "latent damages" is used in §§ 219.41(c)(3) and 219.42(c)(5) in contexts where the regulations clarify the time period within which applicants must report to the Secretary damages that were discovered after their applications were filed.

Comment. One commenter raised three points regarding the definition of "major disasters" in § 219.4(c): (1) May a drought be a major disaster? (2) Shouldn't the regulations include a provision of the law allowing the President to declare a threatening situation a major disaster? (3) Why do the regulations not state that only disasters occurring after August 30, 1965 are eligible for assistance?

Response. A change has been made to include the President's declaration of a threatening situation as a major disaster. The law does permit a drought to be a major disaster. Although the law states that only disasters occurring after August 30, 1965 are eligible for assistance, it is unnecessary to mention this in regulations which are for use by current applicants that have experienced disasters more recently.

Comment. One commenter asked why the definition of "membership" in § 219.4(c) varies in its wording from the definition of the same term given in the law.

Reponse. No change has been made. The definition in § 219.4(c) clarifies the statutory definition and is substantially identical to it. The § 219.4(c) definition also provides a rule for determining membership in cases where no State law governs that determination; the Secretary is required by law to regulate on this topic.

Comment. One commenter asked—regarding the definition of "minimum school facilities" in § 219.4(c)—whether the Secretary observes the legal requirements that SEAs and LEAs must be consulted prior to determinations of what facilities are minimum school facilities. The commenter also asked why the definition apparently omitted provisions of law requiring that, in constructing minimum school facilities, LEAs (1) must give due consideration to excellence of architecture and design, (2) must be allowed to include works of art if their cost does not exceed one percent of a project's cost, and (3) must provide appropriate access and use by handicapped persons.

Response. A change has been made to reflect that the Secretary consults SEAs and LEAs in determining what facilities are minimum school facilities. The other legal provisions regarding minimum school facilities are now included in §§ 219.15 (f), (g), and 219.42(b)(2) (i), (ii) of these final regulations.

Comment. One commenter noted that the term "normal capacity" is not used in the law and asked why it needs to be defined. The commenter also stated that the term "pupil stations," which was used in the proposed definition of "normal capacity," is confusing.

Response. A change has been made to refer to "pupils" rather than to "pupil stations." It is important to define the term "normal capacity" because it is used in these regulations to help measure an LEA's need for minimum school facilities.

Comment. A commenter questioned whether a "drought" could be included in the definition of "pinpoint disaster": The law does not mention a drought in this context.

Response. A change has been made. The definition of pinpoint disaster no longer includes a "drought."

§ 219.12 Payment for Minor Repairs

Comment. One commenter noted that the law does not specifically instruct the Secretary to define the term "minor repairs" and asked why this is necessary.

Response. No change has been made. Section 7 of Pub. L. 81–874 provides assistance for minor repairs to a damaged school facility, whereas Section 16 of Pub. L. 81–815 provides assistance for the restoration of seriously damaged or destroyed school facility. It is necessary to differentiate between these two types of assistance to properly administer these laws.

Comment. One commenter asked, in regard to § 219.12(a)(3), why replacement of 30 percent or less of a major structural element was chosen as a measure of whether a repair is considered "minor." The commenter also asked whether the regulations permit payments for an unlimited

number of repairs which do not affect a major structural element.

Response. No change has been made. The 30 percent factor reflects the judgment of the Department of Health and Human Services' Office of Facilities Engineering—which provides technical assistance in administering the disaster program—regarding which repairs are relatively minor. All repairs not involving replacement of a major structural element are classified as minor repairs and are eligible for assistance. Note that these final regulations expand the definition of minor repairs to include replacement of more than 30 percent of a major structural element if the total cost is no more than $100,000.

Comment. One commenter suggested that § 219.12(b), which permits an LEA to apply funds needed for minor repairs to the razing of a damaged facility and to new construction, is inconsistent with the purpose of Pub. L. 81–874.

Reponse. A change has been made to clarify that when an LEA does this the LEA must pay all additional costs associated with its choice to construct a new facility rather than to repair the damaged facility. However, the Secretary continues to believe that allowing an LEA this choice is consistent with Pub. L. 81–874. Section 7(b) of that statute provides an LEA afflicted by a disaster "an amount (the Secretary determines) to be necessary * * * to make minor repairs * * *." The intent of that provision is to benefit a distressed school district whose facilities have been damaged; there is no language in the law clearly indicating that Congress intended to deprive an LEA of this assistance simply because the LEA desires to replace, rather than repair, a damaged facility. Sometimes it is more economical to construct a new facility than to repair a damaged one; in these instances it makes sense to allow an LEA to embark on new construction without forfeiting its eligibility for disaster assistance. Because the LEA is held responsible for all costs in excess of the amount that would have been required to repair the facility, the cost to the Federal Government is not increased.

Note that §§ 219.12(c) and 219.42(b)(1)(iii) of these final regulations now contain similar provisions (without increasing the cost to the Federal Government, these provisions preserve an LEA's flexibility to replace damaged equipment and materials, and to choose the size of the gymnasium or auditorium the LEA will build to replace a gymnasium or auditorium that has been damaged or destroyed by a disaster). Note also that § 219.12(b) has been reworded to clarify that only a facility similar to a damaged facility can be constructed using funds available for minor repairs.

§ 219.13 Provision of Needed Temporary School Facilities

Comment. One commenter asked why the regulations in § 219.13 are more specific than the law, which merely authorizes temporary facilities.

Response. No change has been made. The object of § 219.13 is to enumerate and indicate the relationship between various alternative means of providing temporary facilities.

Comment. One commenter asked whether § 219.13(a)(1) refers to the initial purchase of equipment or to its ongoing operating costs.

Response. A change has been made to clarify that this section refers to purchase of equipment.

Comment. One commenter stated that provision of temporary cafeteria facilities is an allowable expenditure under Pub. L. 81–874 and asked whether § 219.13(a)(2) permits conversion of remaining portions of school facilities into cafeteria facilities.

Response. A change has been made to clarify that conversion to cafeteria facilities is permitted.

Comment. A commenter asked why § 219.13(a)(4), which permits the purchase of temporary portable facilities in certain circumstances, does not also permit the purchase of temporary nonportable facilities.

Response. No change has been made. Purchase of temporary nonportable facilities would include acquisition of land and this is expressly forbidden under Section 7(b) of Pub. L. 81–874. Section 219.13(b) has been reworded to clarify this prohibition.

Comment. One commenter noted that no erection of facilities is allowed under Pub. L. 81–874 and asked whether § 219.13(b) of the proposed rules, which explicitly forbade only the construction of "nonportable" facilities, implicitly suggested that temporary portable facilities could be erected.

Response. The Secretary does not consider the lease or purchase of a portable facility to be the erection of a facility. However, § 219.13(b) has been changed to clarify that no erection of facilities is allowed.

§ 219.14 Payment of Increased Current Operating Expenses or Replacement of Lost Revenues

Comment. One commenter suggested that § 219.14(a) of the proposed rules was not legally authorized, inasmuch as the section limited assistance to the lesser of an LEA's budgeted or actual current operating expenses in situations where one or both of these amounts was less than the amount necessary to maintain the level of education maintained by the LEA prior to the disaster.

Response. A change has been made. These sections of the proposed rules have been deleted. Pub. L. 81–874 states an absolute limit on assistance: It may not exceed the amount—together with other funds available to an LEA—necessary to maintain the LEA's level of education prior to the disaster. The law also gives the Secretary broad discretion within this limit to award the LEA amounts the Secretary considers in the public interest. The Secretary continues to believe it is lawful, at least in cases where an LEA budgets or spends a total amount for free public education that is less than that expended prior to the disaster, to take these facts into consideration in determining how much Federal assistance is in the public interest. These determinations will be made on a case-by-case basis.

Comment. One commenter suggested that § 219.14(d) should clarify that the percentages specified in this section are maximum amounts of assistance for which an LEA may apply.

Response. A change has been made to make this more clear: The word "maximum" is now included in § 219.14(d).

Comment. One commenter suggested that § 219.14(e), which deals with assistance to LEAs serving private school children displaced by a major disaster, be revised more clearly to express the intent of Pub. L. 81–874 that these children be educated under public auspices and without making payments for religious worship or instruction.

Response. A change has been made. The language of the law regarding educating these children under "public auspices and administration" and forbidding payments related to religious worship or instruction has been added to the regulations.

§ 219.15 Restoration or Replacement of School Facilities

Comment. One commenter wanted to know why § 219.15 of the proposed regulations stated that a facility is considered seriously damaged only if more than 30 percent of a major structural element needs restoration or replacement, and asked whether Pub. L. 81–815 funds—rather than Pub. L. 81–874 funds—must be used for such projects.

Response. No change has been made as a result of this comment. The 30 percent factor represents the judgment of the Department of Health and Human

Services' Office of Facilities Engineering—which provides technical assistance in administering the disaster program—regarding which projects involve "serious damage" rather than "minor repairs." See the parallel comment and response regarding § 219.12. Section 219.15 has been changed, however, to exclude projects costing no more than $100,000 from the definition of "serious damage"; Pub. L. 81–815 funds are used for all "serious damage." Pub. L. 81–874 funds are used for "minor repairs."

Comment. A commenter suggested that § 219.15 in the proposed regulations might prevent an LEA from receiving assistance if the LEA is located in a State having no law requiring restoration or replacement of facilities.

Response. A change has been made to eliminate that possibility. In addition, this section has been changed to contain a more liberal rule regarding which facilities not yet in use by the LEA may be restored or replaced with Federal assistance in the event these facilities are seriously damaged.

Comment. A commenter suggested that § 219.15(c), which deals with construction of school facilities for private school children displaced by a major disaster, be revised to more clearly express the intent of Pub. L. 81–815 that these children be educated under public auspices and without making any payment for religious worship or instruction.

Response. A change has been made. The suggested changes are now incorporated in § 219.15(c). See the parallel comment and changes for § 219.14(e).

§ 219.21 Application Procedures

Comment. One commenter suggested that it is unnecessary to require an applicant to submit a preapplication.

Response. A change has been made. This requirement has been deleted.

Comment. One commenter asked why § 219.21(f) requires a new application for each fiscal year in cases where assistance is being provided for payment of current operating expenses or replacement of lost revenues.

Response. No change has been made. An annual filing of an application is required because it is not possible to determine an LEA's need for this type of assistance without reviewing its proposed budget for a particular fiscal year.

§ 219.31 Review of an Application: Consideration of Other Resources Available to an Applicant

Comment. One commenter stated that §219.31(a)(4) should require consideration of insurance proceeds only for construction assistance because the law mentions their consideration only in the context of construction.

Response. No change has been made. While insurance proceeds are specifically mentioned concerning construction assistance by Section 16 of Pub. L. 81–815, all types of disaster assistance are subject to the condition that an LEA must have a need that cannot be met by other sources. If an LEA receives insurance proceeds to cover part of the cost of disaster recovery, there is a diminished need for Federal assistance.

Comment. One commenter stated, regarding § 219.31(5), that the law does not specifically mention consideration of interest that would be derived from funds provided by State, local, or Federal programs.

Response. No change has been made. An LEA that earns interest on funds made available by State, local, or Federal programs or on insurance proceeds would have use of that interest to pay for disaster recovery. Accordingly, the LEA would have a diminished need for Federal disaster assistance.

Comment. One commenter, in regard to § 219.31(b), stated that the resources referred to there are not mentioned by name in the law and asked whether they fall under the general category of funds locally available to an applicant.

Response. No change has been made. The resources mentioned in § 219.31(b) fall under the general category of local funds. They are mentioned in this section to make explicit that the Secretary considers them available to an applicant.

Comment. One commenter, in regard to § 219.31(b)(2)(ii), asked what information the Secretary will use to determine how much in unobligated or unencumbered non-Federal funds an LEA has set aside for insurance or as a reserve.

Response. No change has been made. The Secretary will use all pertinent information required in order to make this determination.

§ 219.32 Consultation With the State Educational Agency

Comment. One commenter, suggested that 219.32 be changed to clarify that consultation with the State educational agency (SEA) is required by statute only in cases in which an application concerns restoration or replacement of minimum school facilities. The commenter also suggested citation of other legal authority to support this section.

Response. A change has been made. The commenter's suggestions are now incorporated in § 219.32 of these final regulations.

§ 219.33 Determination of Priorities Among Eligible Applications

Comment. One commenter asked, in regard to § 219.33(c)(2), how the Secretary will determine an LEA's bond capacity in instances where that capacity is not limited by statute.

Response. A change has been made. Section 219.33(c)(2) now provides that, "If the LEA's bond capacity is not limited by statute, the Secretary considers this capacity to be limited to 12 percent of the LEA's assessed valuation of real property."

§ 219.41 Eligible costs for Assistance Related To Replacement of Instructional and Maintenance Supplies, Equipment, and Material; Minor Repairs; or Provision of Temporary School Facilities (Section 7(b) of Pub. L. 81–874)

Comment. One commenter stated, regarding § 219.41(b)(2) of the proposed rules, that the cost of use of a grantee's equipment is not fairly measured by the rental rate for comparable equipment.

Response. A change has been made. This section of the proposed rules has been deleted. Expenses for use of an applicant's equipment are not considered eligible costs under the disaster assistance program.

Comment. One commenter asked whether work performed by an applicant's maintenance employees, instead of their regular duties and because of an impending disaster, would be classified as an eligible cost.

Response. A change has been made. Work performed before or after a disaster by a grantee's maintenance employees may be considered an eligible cost if it is clearly related to the disaster and in addition to—not in place of—their regular duties.

Comment. One commenter questioned whether demolition of facilities and removal of debris can lawfully be considered an eligible cost.

Response. No change has been made. Section 7(b) of Pub. L. 81–874 authorizes the Secretary to determine the amount of funds necessary to make minor repairs and provide various other types of assistance to an LEA, and in many disasters demolition of damaged facilities and removal of debris are necessary to achieve these objectives.

Comment. One commenter asked whether the list of eligible costs in § 219.41 is intended to be comprehensive

and, if so, whether a number of basic costs have been left out.

Response. No change has been made. The list of eligible costs provided in § 219.41 is not intended to be comprehensive. Instead of stating all costs eligible for assistance, the list states rules governing typical situations that arise in the aftermath of a disaster. Certain items—such as textbooks—whose cost may be borne by Federal funds are not included in § 219.41 because they are previously mentioned in §§ 219.11, 219.12, and 219.13, which give a general description of the Pub. L. 81–874 disaster assistance program.

Comment. One commenter suggested that § 219.41(c)(1) should make clear that no costs relating to acquisition of land are allowed.

Response. A change has been made. Section 219.41(c)(1) has been clarified explicity to exclude acquisition of land.

Comment. One commenter stated that the six-month limitation on reporting latent damages in § 219.41(c)(3) is not specified in the law, and asked for the rationale for this cut off point.

Response. No change has been made. In order to administer the disaster program the Secretary must set a time limit for the report of latent damages, and giving an LEA six months after its application is received allows the LEA a reasonable period of time in which to detect and report these damages.

Comment. A commenter asked why § 219.41(d) of the proposed rules stated that eligible costs for grantees afflicted by pinpoint disasters would only include expenses in excess of the full value, at the time of the disaster, of the damaged items being replaced by the LEA. The proposed rules did not place a comparable limit on eligible costs for grantees afflicted by major disasters.

The commenter also asked whether the term "facilities" as used in proposed § 219.41(d) implied that the Secretary believes consideration of insurance proceeds on damaged or destroyed buildings is relevant to determining the amount of assistance an LEA may receive under Pub. L. 81–874. The commenter suggested that consideration of these proceeds is not relevant to that determination.

Response. A change has been made. Section 219.41(d) of the final regulations states that eligible costs include only the amount of an LEA's expenses exceeding any insurance proceeds available to the LEA. This rule applies to LEAs that have experienced either a major or a pinpoint disaster. However, the final regulations continue to imply that consideration of insurance proceeds on damaged or destroyed buildings is relevant to awarding appropriate amounts of assistance under Pub. L. 81–874. The statute authorizes payment for minor repairs which are usually to a facility such as a building owned by an LEA. In these situations, the Secretary believes it proper to consider any insurance proceeds available to the LEA from damaged or destroyed facilities—including buildings—in determining eligible costs to be paid from Pub. L. 81–874 funds.

§ 219.42 Eligible Costs for Restoration or Replacement of School Facilities (Section 16 of Pub. L. 81–815)

Comment. One commenter suggested that this section of the proposed regulations be revised to allow an LEA to build a gymnasium or auditorium having a larger capacity than a school's membership if the LEA pays for the extra cost associated with the increased capacity.

Response. A change has been made in § 219.42(b)(1)(iii) of these final regulations to provide that an LEA may do this.

Comment. One commenter asked why the proposed regulations omitted reference to a provision of Pub. L. 81–815 that permits expenditures needed to assure that after destroyed facilities are restored or replaced, these facilities will afford appropriate protection against personal injuries that could result from a future disaster.

Response. A change has been made. Section 219.42(b)(2) now includes this provision.

Comment. A commenter asked regarding the costs identified in § 219.42(c)(4) of the proposed regulations—"emergency repairs to prevent further damage to a facility or to make it immediately available for education"—whether these costs are excluded from funding under Pub. L. 81–815 because they are permitted under Pub. L. 81–874, or are prohibited from the disaster program altogether.

Response. No change has been made. In appropriate circumstances these costs are eligible for payment under Pub. L. 81–874. Section 219.41(b)(13) of these final regulations now makes this explicit.

Comment. One commenter asked why § 219.42(d) of the proposed rules stated that eligible costs for grantees afflicted by a pinpoint disaster would only include expenses in excess of the full value, at the time of the disaster, of the damaged or destroyed facilities being replaced by the LEA. The commenter noted that § 219.42(e) of the proposed rules stated a separate rule for LEA's afflicted by a major disaster: eligible costs for these LEAs were limited only by the insurance proceeds available to them.

Response. A change has been made. The rule for major disasters now applies in cases of a pinpoint disaster also. See the parallel comment, response, and changes regarding § 219.41(d) of these final regulations.

[FR Doc. 82–1517 Filed 1–21–82; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

REMINDERS

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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