OK

9-28-82
Vol. 47 No. 188
Pages 42541-42712

federal register

Tuesday
September 28, 1982

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Color Additives
Food and Drug Administration

Fisheries
National Oceanic and Atmospheric Administration

Government Employees
Personnel Management Office

Grain
Federal Grain Inspection Service

Grant Programs—Environmental Protection
Environmental Protection Agency

Health Insurance
Defense Department

Highways and Roads
Land Management Bureau

Investment Companies
Securities and Exchange Commission

Marketing Agreements
Agricultural Marketing Service

Medicare
Health Care Financing Administration

Natural Gas
Federal Energy Regulatory Commission

Oil and Gas Exploration
Minerals Management Service

CONTINUED INSIDE

Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

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

Old-Age, Survivors, and Disability Insurance
Social Security Administration

Organization and Functions (Government Agencies)
Consumer Product Safety Commission

Pensions
Pension Benefit Guaranty Corporation

Recreation Areas
Land Management Bureau

Trade Practices
Federal Trade Commission

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register
Vol. 47, No. 188
Tuesday, September 28, 1982

The President
ADMINISTRATIVE ORDERS
42541 Liberia, U.S. Economic Support Fund assistance (Presidential Determination No. 82–16 of May 27, 1982)
PROCLAMATIONS
42545 Cystic Fibrosis Week, 1982 (Proc. 4977)
42547 Lupus Awareness Week, 1982 (Proc. 4978)
42543 Sewing Month, National (Proc. 4976)

Executive Agencies

Agricultural Marketing Service
RULES
42549 Marketing orders, various; expenses and rates of assessment

Agriculture Department
See Agricultural Marketing Service; Commodity Credit Corporation; Federal Grain Inspection Service; Soil Conservation Service.

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
42632 October

Army Department
See also Engineers Corps.
NOTICES
Meetings:
42604, 42605 Medical Research and Development Advisory Committee (2 documents)
42604 Science Board (5 documents)

Arts and Humanities, National Foundation
NOTICES
Meetings:
42660 Media Arts Advisory Panel

Civil Aeronautics Board
RULES
Procedural regulations:
42551 Board proceedings; charter authority applicants, notice requirement waivers
NOTICES
Hearings, etc.:
42600 Braniff South American route transfer case (2 documents)
42601 Manu'a Air Transport, Inc.; fitness determination

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration; Travel and Tourism Administration.

Commodity Credit Corporation
NOTICES
Loan and purchase programs:
42599 Soybeans

Consumer Product Safety Commission
RULES
Organization and functions:
42552 Public participation and advisory committee management responsibilities, etc.

Defense Department
See also Army Department; Engineers Corps.
RULES
Civilian health medical program of uniformed services (CHAMPUS):
42570 Durable medical equipment; rent or obtainment of lease/purchase arrangement restriction removed
NOTICES
Meetings:
42606 National Defense University and Defense Intelligence School Board of Visitors
42606 Wage Committee

Education Department
NOTICES
Grant applications and proposals; closing dates:
42606 Minority institutions science improvement program

Employment and Training Administration
NOTICES
42660 Employment transfer and business competition determinations; financial assistance applications

Energy Department
See Federal Energy Regulatory Commission.

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
42605 Coos Bay, Oreg.; designation as dredged material ocean disposal sites
42605 Harlan County Lake, Nebr., continuing operation and maintenance program

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
42572 Arizona
42573 Colorado
42711 Virginia
Water pollution; effluent guidelines for point source categories:
42688 Pretreatment standards, general; new and existing industrial users of POTWs; reinstatement
PROPOSED RULES
Grants, State and local assistance:
42591 Construction grants program; delegation to States
Water pollution; effluent guidelines for point source categories:
42698 Pretreatment standards; removal credits

Water pollution control:
42595 Disposal sites for dredged or fill material; specification guidelines; request for extension of time denied

Federal Aviation Administration
NOTICES
Meetings:
42667 Traffic alert and collision avoidance system symposium

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
42562 Incremental pricing; acquisition cost thresholds
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
42562 Colorado; correction
PROPOSED RULES
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
42583 New Mexico
42584, 42585 Utah (2 documents)
NOTICES
Environmental statements; availability, etc.:
42619 Trans-Niagara Pipeline inport project; inquiry, etc.
Hearings, etc.:
42607 Arkansas Electric Cooperative Corp. et al.
42615 Biggs, Russell, Sr.
42608 Campbell and Thayer, Mo.
42609 D. J. Pitman International Corp.
42609 Esperanza Transmission Co.
42610 F&T Services Corp.
42610 Homestake Consulting & Investments, Inc. (2 documents)
42611 Kentucky Utilities Co.
42613 Long Lake Energy Corp.
42613 Massachusetts Municipal Wholesale Electric Co. et al.
42614 Pennsylvania Hydro-Electric Development Corp.
42614 Pioneer Hydro Power, Inc.
42615 Quidnick Reservoir Association
42616 South Fork Hydroelectric Association
42617 Southern Co. Services, Inc.
42668, 42670 Meetings; Sunshine Act (2 documents)
Natural Gas Policy Act:
42620, 42626 Jurisdictional agency determinations (2 documents)

Federal Grain Inspection Service
PROPOSED RULES
42576 Sampling provisions by kind of movement

Federal Home Loan Bank Board
NOTICES
42670 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
Casualty and nonperformance, certificates:
42630 Canadian Cruise Lines Ltd.
Energy and environmental statements; availability, etc.:
42630 Tariff currencies; currency adjustment factors reflecting changes in exchange rate; filing requirements

Federal Reserve System
NOTICES
Applications, etc.:
42631 Britton & Koontz Capital Corp. et al.
42630 Hawkeye Bancorporation et al.
Bank holding companies; proposed de novo nonbank activities:
42630 First National Boston Corp. et al.
42670 Meetings; Sunshine Act

Federal Trade Commission
RULES
Prohibited trade practices:
42551 Litton Industries, Inc., et al.
42552 Xerox Corp.
NOTICES
42631 Agency forms submitted to OMB for review

Food and Drug Administration
RULES
Color additives:
42566 D&C Red No. 27 and D&C Red No. 28; use in drugs and cosmetics; permanent listing
42563 FD&C Blue No. 1; use in externally applied drugs and cosmetics; permanent listing
PROPOSED RULES
Medical devices:
42588 Orthopedic devices; general provisions and classification; correction
NOTICES
Human drugs:
42634 Cough, cold, or allergy prescription products; Ornade Spansules; drug efficacy study implementation; exemption revoked and hearing opportunity; correction
Laser variance approvals, etc.:
42633 Eye See the Light Show, Inc., et al.; correction
Meetings:
42633 Advisory committees, panels, etc.

Health and Human Services Department
See Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Health Care Financing Administration; Public Health Service; Social Security Administration.

Health Care Financing Administration
RULES
Medicare:
42676 Private rooms; elimination of indirect subsidy; interim rule and request for comments

Hearings and Appeals Office, Interior Department
RULES
42574 Hearings and appeals procedures; removal of obsolete provisions

Historic Preservation Advisory Council
NOTICES
42599 Meetings

Interior Department
See Hearings and Appeals Office, Interior Department; Land Management Bureau; Minerals Management Service; National Park Service; Reclamation Bureau.

International Trade Administration
NOTICES
Antidumping:
42603 Steel products from Belgium, United Kingdom, France, Netherlands, Italy, and West Germany; carbon steel structural shapes from Luxembourg; and carbon steel plate from Romania
42602 Foreign air carriers; exemption from customs duties and taxes for Nigeria; inquiry
Organization, functions, and authority delegations:
42602 International Trade, Deputy Under Secretary
Trade adjustment assistance determination petitions:
42601 Friend Manufacturing Corp. et al.

Interstate Commerce Commission
NOTICES
42671 Meetings; Sunshine Act
Motor carriers:
42643 Finance applications
42645 Permanent authority applications
42645 Permanent authority applications; operating rights republication
Rail carriers; contract tariff exemptions:
42658 Baltimore & Ohio Railroad Co.
42658 Burlington Northern Railroad Co.
42659 Seaboard Coast Line Railroad Co.
Railroad operation, acquisition, construction, etc.:
42658 Chicago & North Western Transportation Co.; trackage rights exemption
Railroad services abandonment:
42659 Missouri Pacific Railroad Co.

Justice Department
NOTICES
Pollution control; consent judgments:
42659 Port ConAgra, Inc.

Labor Department
See Employment and Training Administration.

Land Management Bureau
RULES
Rights-of-way:
42574 Roads and highways; CFR Part removed
PROPOSED RULES
Land resource management:
42684 Recreation and Public Purposes Act conveyances
NOTICES
Classification of public lands:
42642 Colorado
Opening of public lands:
42641 Colorado

Minerals Management Service
RULES
42569 Oil and gas exploration, development, and production operating regulations; tar sand development under Combined Hydrocarbon Leasing Act
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations:
42692 Central and Western Gulf of Mexico; oil and gas leasing

National Labor Relations Board
RULES
42569 Procedural rules; amendment, clarification, and restatement; correction

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
42596 Northwest Atlantic herring; withdrawal of plan, etc.

National Park Service
NOTICES
Historic Places National Register; pending nominations:
42640 Alabama et al.

National Science Foundation
NOTICES
Meetings:
42660 Behavioral and Neural Sciences Advisory Panel

Pension Benefit Guaranty Corporation
PROPOSED RULES
Multiemployer plans:
42588 Special withdrawal rules; definition of "building and construction industry"; advance notice

Personnel Management Office
RULES
Pay administration:
42549 Rates and systems; special salary rates, effect of general pay increase

Public Health Service
NOTICES
42638 Privacy Act; systems of records

Reclamation Bureau
NOTICES
Contract negotiations:
42642 Purgatoire River Water Conservancy District, Trinidad Project, Colo.

Science and Technology Policy Office
NOTICES
Meetings:
42661 White House Science Council

Securities and Exchange Commission
RULES
Investment companies:
42553 Registered separate accounts and other persons, permanent exemptions adoption
PROPOSED RULES
Investment companies:
42578 Finance subsidiaries of United States and foreign private issuers, exemption
NOTICES
Hearings, etc.:
42661 Arkansas Power & Light Co. et al.

42662 Tucker Anthony Group of Tax Exempt Funds
Self-regulatory organizations; proposed rule changes:
42661 National Securities Clearing Corp.
42661 Options Clearing Corp.
Self-regulatory organizations; unlisted trading privileges:
42662 Philadelphia Stock Exchange, Inc.

Selective Service System
NOTICES
Senior Executive Service:
42667 Performance Review Board; membership

Small Business Administration
NOTICES
Applications, etc.:
42664 Alaska Business Investment Corp.
42665 Cineffects Capital Corp.
42665 Finevalor Capital Corp.
42666 Nationwide Funding Corp.
42666 Schooner Capital Corp.
42666 Transatlantic Capital Corp.
Disaster loan areas:
42665 Louisiana
42665 Interest rates; quarterly determinations

Social Security Administration
PROPOSED RULES
Social security benefits:
42587 Deceased claimants, withdrawal of applications
NOTICES
Grants; availability, etc.:
42634 Refugee resettlement program; social service funds; allocation formula

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
42600 Crowley's Ridge and Benton Hills RC & D Measure, Mo.

Transportation Department
See Federal Aviation Administration.

Travel and Tourism Administration
NOTICES
Meetings:
42603 Travel and Tourism Advisory Board

Veterans Administration
NOTICES
Committees; establishment, renewals, terminations, etc.:
42667 Health Services Research and Development and Rehabilitation Research and Development Scientific Review and Evaluation Boards et al.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

4976 42543
4977 42545
4978 42547

Administrative Orders:

Presidential Determinations:

No. 82-16 of May 27, 1982 42541

5 CFR

530 42549

7 CFR

908 42459
910 42549
924 42549
926 42549
929 42549
931 42549
932 42549

Proposed Rules:

800 42576

14 CFR

302 42551

16 CFR

13 (2 documents) 42551, 42552
1000 42552

17 CFR

270 42553

Proposed Rules:

270 42578

18 CFR

271 42562
282 42562

Proposed Rules:

271 (3 documents) 42583-42585

20 CFR

Proposed Rules:

404 42587

21 CFR

74 (2 documents) 42563, 42566
81 (2 documents) 42563, 42566
82 42566

Proposed Rules:

888 42588

29 CFR

102 42569

Proposed Rules:

2646 42588

30 CFR

221 42569
231 42569

32 CFR

199 42570

40 CFR

52 (3 documents) 42572, 42573, 42711
403 42688

Proposed Rules:

35 42591
230 42595
403 42698

42 CFR

405 42676

43 CFR

4 42574
2820 42574

Proposed Rules:

2740 42684
2910 42684

50 CFR

Proposed Rules:

653 42596

Federal Register
Vol. 47, No. 188
Tuesday, September 28, 1982

Presidential Documents

Title 3—

The President

Presidential Determination No. 82-16 of May 27, 1982

Economic Support Fund Assistance for Liberia

Memorandum for the Honorable Alexander M. Haig, Jr., the Secretary of State

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, as amended (the Act), I hereby:

(1) determine under Section 614(a)(1) of the Act that the furnishing of up to $14.9 million in assistance for Liberia under chapter 4 of part II of the Act from funds earmarked under Section 539 of the Act, and without regard to the provisions of Section 539, is important to the security interests of the United States; and

(2) authorize the furnishing of such assistance.

You are requested to report this determination to the Congress immediately in accordance with the requirements of the Act, and none of the assistance provided for herein shall be furnished until after such report has been made.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, May 27, 1982.

[FR Doc. 82-26814
Filed 9-24-82; 4:31 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4976 of September 24, 1982

National Sewing Month

By the President of the United States of America

A Proclamation

Tens of millions of Americans sew at home. Their efforts demonstrate the industry, the skill and the self-reliance which are so characteristic of this Nation.

In recognition of the importance of home sewing to our economy the Congress has, by Senate Joint Resolution 205, designated September, 1982, as National Sewing Month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim September, 1982, as National Sewing Month. I call upon the people of the United States to observe this month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of September, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-26852
Filed 9-27-82; 10:48 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 4977 of September 24, 1982

National Cystic Fibrosis Week, 1982

By The President of the United States of America

A Proclamation

In our country today there are approximately 20,000 to 30,000 young people afflicted with cystic fibrosis—a genetic disease that will prevent most of them from reaching full adulthood. Cystic fibrosis is the most common fatal genetic disease that strikes American children; its cause and cure are still a mystery, and its effects pose formidable obstacles to normal activity throughout its victims' brief lives.

In the past twenty-five years, medical research has achieved measurable success in treating the symptoms of cystic fibrosis and in extending the lives of children born with the disease. The promise of further advances and the courage demonstrated each day by the suffering victims spur intensified research efforts.

With continuing attention to the many scientific questions yet to be answered and improved public awareness of the benefits of early diagnosis of this disease, there is good cause for optimism that cystic fibrosis can be overcome. The combined efforts of dedicated researchers and volunteers committed to the challenge of cystic fibrosis are a wellspring of hope for patients and their families, and the millions of Americans who may unknowingly carry the genetic trait that produces cystic fibrosis.

Acknowledging the progress of the last twenty-five years, and recognizing the compelling need to expand on past efforts to combat this fatal disorder, the Congress has, by Senate Joint Resolution 186, designated September 19 through 25, 1982, as National Cystic Fibrosis Week, declaring it as a time to consider the profound impact of the disease and the growing sense of hopefulness for the future of cystic fibrosis victims.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning September 19, 1982, as National Cystic Fibrosis Week and call upon the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of September, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-26853
Filed 9-27-82; 10:49 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 4978 of September 24, 1982

Lupus Awareness Week, 1982

By the President of the United States of America

A Proclamation

Systemic lupus erythematosus (lupus) is a serious disorder that can affect many different parts of the body, including the skin, joints, kidneys, heart, central nervous system, and other internal organs. While no one person has all symptoms, and they may occur in varying combinations, there are recognizable patterns of illness that identify patients with lupus.

It is estimated that 500,000 Americans have lupus—most of them young women. Fortunately, because of the progress that has been made in recent years toward better understanding and increased public awareness of the disease, there is more hope for its victims. Although research has yet to find the cure for lupus, the outlook for patients has improved greatly. Through advances in medical research, including better diagnosis and more effective drug treatment and medical management, many patients with lupus can now look forward to living more productive and happier lives. It is my fervent hope that continuing advances in medical research will improve the quality of life for all lupus patients and eventually lead to the prevention and cure of this serious and distressing disease.

By Senate Joint Resolution 183, the Congress of the United States has requested the President to designate the week beginning October 17, 1982, as Lupus Awareness Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 17, 1982, as Lupus Awareness Week, and I call upon the people of the United States to observe this week by learning more about this disease.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of Sept., in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-26854
Filed 9-27-82; 10:50 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 188
Tuesday, September 28, 1982

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 530

Pay Rates and Systems (General): Effect of General Pay Increases on Special Salary Rates

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is revising the regulation that determines the relationship of a special rate schedule to the pay schedule of the pay system for which the special rate schedule is authorized. Section 303 of Executive Order 11721 requires that each special schedule be reviewed at least annually and adjustments made as warranted by then current labor market and staffing conditions. OPM's regulation provides that, pending the annual review, special rate schedules will be automatically aligned when the regular pay schedule is adjusted. Beginning this year, however, OPM will make all adjustments to special rates effective on the date of the general pay adjustment in October; consequently, it is no longer necessary to align the special rates with the new regular schedule and OPM is revising the regulation governing this alignment.

EFFECTIVE DATE: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Richard J. Carney, Chief, Allowances and Special Rates Division, (202) 632-8742.

SUPPLEMENTARY INFORMATION: A proposed regulation was published in the **Federal Register** on August 4, 1982 (47 FR 33713), for a public comment period of 30 days. The Office of Personnel Management received written comments from one agency and two employee organizations.

The Federal agency and one of the employee organization's recommendations concerned the addition of language to the regulation to require that special rate adjustments, where warranted, be effective on the date of the general pay adjustment. While it is OPM's intent to effect warranted adjustments at the same time as the general pay adjustment, to require a same time effective date in the regulation would unduly restrict OPM's ability to make adjustments at times other than the effective date of the general pay adjustment. For example, if in a given year, the President and Congress decide that there will be no general pay adjustment, special rate adjustments could not be effected. For this reason, these recommendations are not being adopted.

The other employee organization questioned OPM's authority to "disconnect" special rate employees from the statutory pay system and deny them the regular pay schedule increase.

Employees covered by special rate schedules are not entitled to the full regular schedule adjustments under the existing regulation; but, instead, an adjustment to the new minimum rate of the new regular schedule. This adjustment was not statutorily required, but was an administrative determination. OPM is changing this administrative determination and eliminating the automatic adjustment. Special rate schedules will now be adjusted, where warranted, effective at the time of the regular schedule adjustment.

I find that good cause exists for waiving the delay of effectiveness usually required by 5 U.S.C. 553(d). The delay of effectiveness is waived because of the program benefits to be gained by effecting this change prior to this October's general pay adjustment.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it applies only to pay systems affecting Federal employees.

List of Subjects in 5 CFR Part 530

Government employees, Wages.

U.S. Office of Personnel Management.
Donald J. Devine,
Director.

PART 530—PAY RATES AND SYSTEMS (GENERAL)

Accordingly, § 530.307 paragraph (a) of 5 CFR is revisd to read as follows:

§ 530.307 Effect of general pay increase on special salary rate schedules.

(a) A general revision of the regular pay schedule of the pay system for which special salary rates are authorized under section 5303 to title 5, United States Code, will have no effect on special salary rate schedules. Special salary rate schedules will be reviewed at least annually and adjusted, if warranted, by the Office of Personnel Management.

* * * * *

(E.O. 11721)

[FR Doc. 82-26552 Filed 9-27-82; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 908, 910, 924, 926, 927, 929, 931, and 932

Expenses and Rates of Assessment for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of the committees functioning under Marketing Orders 908, 910, 924, 927, 929, 931, and 932. Funds to administer these programs are derived from assessments on handlers of the fruits regulated under the orders.

EFFECTIVE DATES: November 1, 1979–October 31, 1980 (§ 908.219); April 1, 1982–March 31, 1983 (§ 924.222, § 926.222); July 1, 1982–June 30, 1983 (§ 927.222, § 931.217); August 1, 1982–July 31, 1983 (§ 910.220); September 1, 1982–December 31, 1983 (§ 932.217); September 1, 1982–August 31, 1983 (§ 929.223).

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. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not significantly affect costs for the directly regulated handlers.

These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based upon the recommendations and information submitted by each committee, established under the respective marketing order, and upon other information. It found that the expenses and rates of assessment, as hereinafter provided, will tend to effectuate the declared policy of the Act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking, and good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Each order requires that the rate of assessment for a particular fiscal period shalll apply to all assessable commodities handled from the beginning of such period. To enable the committees to meet current fiscal obligations, approval of the expenses is necessary without delay. It is necessary to effectuate the declared policy of the Act to make these provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Parts 908–932

Marketing agreements and orders, Oranges (Valencia), Lemons, Prunes, Grapes, Pears, Cranberries, Olives, California, Arizona, Washington, and Oregon.

Sections 908.219 (45 FR 14199) and 924.222 (47 FR 34351) are revised and §§ 910.219, 926.221, 927.221, 929.222, 931.216, and 932.216 are removed and new sections are added as follows (the following sections prescribe annual expenses and assessment rates and will not be published in the annual Code of Federal Regulations):

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA.

Section 908.219 paragraph (a) is revised to read as follows:

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

(a) Expenses that are reasonable and likely to be incurred by the Valencia Orange Administrative Committee during the period November 1, 1979 through October 31, 1980, will amount to $376, 900.

* * * * *

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Section 910.220 is added to read as follows:

§ 910.220 Expenses and assessment rate.

Expenses of $591,070 by the Lemon Administrative Committee are authorized, and an assessment rate of $0.047 per carton of lemons is established for the fiscal year ending July 31, 1983; and unexpended assessment funds may be carried over from the fiscal year ended July 31, 1982.

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

Section 924.222 is added to read as follows:

§ 924.222 Expenses and assessment rate.

Expenses of $30,549.50 by the Washington-Oregon Fresh Prune Marketing Committee are authorized, and an assessment rate of $2.20 per ton of prunes is established for the fiscal year ending March 31, 1983; and unexpended funds from the fiscal year ended March 31, 1982 shall be carried over as a reserve.

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Section 926.222 is added to read as follows:

§ 926.222 Expenses and assessment rate.

Expenses of $211,506 by the Industry Committee are authorized, and an assessment rate of $0.11 per 23-pound lug of grapes is established for the fiscal year ending March 31, 1983. Unexpended funds may be carried over as a reserve.

PART 927—BUERRE D'ANJOU, BUERRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BUERRE EASTER, AND BUERRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Section 927.222 is added to read as follows:

§ 927.222 Expenses and assessment rate.

Expenses of $213,527 by the Control Committee are authorized, and an assessment rate of $0.02 per standard western pear box of pears is established for the fiscal year ending June 30, 1983. Unexpended funds may be carried over as a reserve.

PART 929—CRANBERRIES GROWN IN STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Section 909.223 is added to read as follows:

§ 929.223 Expenses and assessment rate.

Expenses of $92,805 by the Cranberry Marketing Committee are authorized, and an assessment rate of $0.035 per barrel (100 pounds) of cranberries is established for the fiscal year ending August 31, 1983. Unexpended funds may be carried over as a reserve.

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Section 931.217 is added to read as follows:

§ 931.217 Expenses and assessment rate.

Expenses of $38,351 by the Northwest Fresh Bartlett Pear Marketing Committee are authorized, and an assessment rate of $0.0125 per standard western pear box of pears is established for the fiscal year ending June 30, 1983. Unexpended funds may be carried over as a reserve.

PART 932—OLIVES GROWN IN CALIFORNIA

Section 932.217 is added to read as follows:

§ 932.217 Expenses and assessment rate.

Expenses of $357,098 by the California Olive Committee are authorized for the period ending December 31, 1983. Unexpended funds may be carried over as a reserve.

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

Dated: September 22, 1982.

D. S. Kuryloski,

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

[FR Doc. 82–26619 Filed 9–27–82; 8:45 am]

BILLING CODE 3410–02–M

CIVIL AERONAUTICS BOARD

14 CFR Part 302

Rules of Practice in Board Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order waiving certain notice requirements.

SUMMARY: The Board in Order 82–9–97 has waived the service requirements of § 302.1705 of its Regulations for the applicant in this proceeding and has extended this waiver to all prospective applicants for charter authority under section 401 of the Federal Aviation Act. Henceforth, charter applicants need only serve the Board and such other additional parties as the Board specifically directs during its processing of the application.

FOR FURTHER INFORMATION CONTACT: Nicholas Lowry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5345.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–9–97 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–9–97 to that address.

By the Civil Aeronautics Board: September 23, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–26637 Filed 9–27–82; 8:45 am]

BILLING CODE 6320–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9123]

Litton Industries, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The Federal Trade Commission, in accordance with the decision and judgment of the Ninth Circuit Court of Appeals, has deleted references to "test" data from its order issued on January 5, 1981 to Litton Industries, Inc., (46 FR 8445). Among other things, the modified order prohibits respondent from misrepresenting survey results in its advertising of microwave ovens and other consumer products.

DATES: Final order issued Jan. 5, 1981. Modifying order issued Sept. 10, 1982.

FOR FURTHER INFORMATION CONTACT: FTC/GE, Jerold D. Cummins, Washington, D.C. 20580. (202) 523–1928.

SUPPLEMENTARY INFORMATION: In the matter of Litton Industries, Inc., a corporation and Litton Systems, Inc., a corporation. Codification appearing at 46 FR 8445 is modified as follows: Delete the following entries—Subpart—Advertising Falsely or Misleadingly: § 13.265 Tests and investigations. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1762 Tests, purported.

List of Subjects in 16 CFR Part 13

Advertising, Microwave ovens, and Surveys.

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

The Modified Order To Cease and Desist is as follows:

Commissioners: James C. Miller III, Chairman; David A. Clanton, Michael Pertschuk, Patricia P. Bailey.

In the matter of Litton Industries, Inc., a corporation, and Litton Systems, Inc., a corporation, Docket No. 9123.

Modified Order To Cease and Desist

Respondents having filed in the United States Court of Appeals for the Ninth Circuit a petition for review of the Commission's order issued herein on January 5, 1981; and the Court having on May 3, 1982, rendered its decision modifying the Commission's order and, as so modified, affirming and enforcing the order; and the time for filing a petition for certiorari having expired and no petition having been filed:

Now, therefore, it is hereby ordered that the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the decision and judgment of the Court of Appeals to read:

Order

I

It is ordered that respondents Litton Industries, Inc., a corporation, Litton Systems, Inc., a corporation, and their successors, assigns, officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising for sale, sale, or distribution of microwave ovens (either for commercial or consumer use), in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do cease and desist from:

1. Representing, directly or by implication, that any commercial microwave oven or consumer microwave oven:

(a) Is able to perform in any respect, or has any characteristic, feature, attribute, or benefit; or

(b) Is superior in any respect to any or all competing products; or

(c) Is recommended, used, chosen, or otherwise preferred in any respect more often than any or all competing products,

unless and only to the extent that respondents possess and rely upon a reasonable basis for such representation at the time of its initial and each subsequent dissemination. Such reasonable basis shall consist of competent and reliable surveys and/or other competent and reliable evidence which substantiates the representation. A competent and reliable survey means one in which persons qualified to do so conduct the survey and evaluate its results in an objective manner, using procedures that insure accurate and reliable results.

2. Failing to maintain accurate records:

(a) Of all materials that were relied upon in disseminating any representation covered by paragraph I(1) of this order, insofar as the text of such representation is prepared, authorized, or approved by any person who is an officer or employee of respondents, or of any division, subdivision or subsidiary of respondents, or by any advertising agency engaged for such purposes by respondents, or by any of its divisions or subsidiaries;

(b) Of all studies, surveys, or demonstrations that contradict any representation made by respondents that is covered by paragraph I(1) of this order.

Such records shall be retained by respondents for three years from the date that the representations to which they pertain are last disseminated, and may be inspected by the staff of the Commission upon reasonable notice.

II

It is further ordered that respondents Litton Industries, Inc., a corporation, Litton Systems, Inc., a corporation, and their successors, assigns, officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising for sale, sale, or distribution of microwave ovens (either for commercial or consumer use) and any other product normally sold to members of the general public for their personal or household use in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do cease and desist from:

1. Misrepresenting in any manner, directly or by implication, the purpose, sample, content, reliability, results or conclusions of any survey.

2. Advertising the results of a survey unless the respondents in such survey are a census or a representative sample of the population referred to in the advertisement, directly or by implication. A representative sample need not be a probability sample so long as when the ad is first disseminated respondents have a reasonable basis to expect the sampling method used would not produce biased results.

3. Representing, directly or by implication, that experts were surveyed, unless reasonable care was taken to insure that the survey respondents possessed sufficient expertise to qualify as respondents for the survey and to answer the survey questions. For purposes of this order, an "expert" is an

individual, group or institution held out as possessing, as a result of experience, study or training, knowledge of a particular subject, which knowledge is superior to that generally acquired by ordinary individuals.

It is further ordered that the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

It is further ordered that the respondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered that the respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

By the Commission. Commissioner Bailey did not participate.

Issued: September 10, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 82-26625 Filed 9-27-82; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket 8909]

Xerox Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying Order.

SUMMARY: This order reopens the proceeding and modifies Paragraph XVII of the Commission's order issued on July 29, 1975 to the Xerox Corporation, (40 FR 42203) by revising the annual notice that Xerox must print in the Official Gazette of the United States Patent and Trademark Office. The modification eliminates the requirement for repitious annual printing of domestic and foreign copier patents available for licensing, and requires that only new patents and deletion of expired patents be published.

DATES: Final Order issued July 29, 1975. Modifying Order issued Sept. 10, 1982.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Elliot Feinberg, Washington, D.C. 20580. (202) 634-4604.

SUPPLEMENTARY INFORMATION: In the Matter of Xerox Corporation, a corporation. Codification appearing at 40 FR 42203 remains unchanged.

List of Subjects in 16 CFR Part 13

Copying equipment, Patents.

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

The Order Modifying Cease and Desist Order Issued July 29, 1975 is as follows:

Commissioners: James C. Miller III, Chairman; David A. Clanton, Michael Pertschuk, Patricia P. Bailey.

In the matter of Xerox Corporation, a corporation, Docket No. 8909.

Order Modifying Cease and Desist Order Issued July 29, 1975

The Federal Trade Commission having considered respondent Xerox Corporation's petition filed on June 11, 1982, to reopen this matter and to modify the consent order to cease and desist issued by the Commission on July 29, 1975, and having determined that reopening and modification of the order is warranted:

It is ordered that this matter be, and it hereby is reopened and that Paragraph XVII of the Commission's order be and it is hereby modified to read as follows:

XVII

It is further ordered that annually, until the expiration of all future patents, Xerox shall submit for publication in the Official Gazette of the United States Patent and Trademark Office a notice:

(1) Identifying by number, title, date of issue and category of subject matter (to an extent acceptable to the Commission) all United States patents which it is empowered to license, together with all foreign patents based on the patent application from which each United States patent originates, issued since the publication of the last such notice;

(2) Stating that Xerox shall grant licenses under (a) its order patents to make, have made, use and vend office copier products under the terms of this order, and (b) patents required to be licensed pursuant to the terms of Paragraph X of this order, if any;

(3) Stating that (a) a copy of this order, (b) a list of patents licensed to Xerox which are subject to the provisions of Paragraph II and IV(C)(9) of this order, if any, and (c) a list of all patents subject to this order which have been previously published are available from Xerox upon written request; and

(4) Citing the issues of the Official Gazette since 1981 in which previous notices have been published. Until the expiration of all Xerox future patents, Xerox shall send a copy of this order and a complete list of patents subject to this order to each person who inquires as to the availability of a license for office copier products, or to whom Xerox has offered such a license at any time since January 1, 1970.

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-26626 Filed 9-27-82; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1000

Revisions to Statement of Organization and Functions

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission is revising its Statement of Organization and Functions to reflect reassignment of responsibilities for public participation and advisory committee management, and abolition of the Interagency Regulatory Liaison Group.

EFFECTIVE DATE: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone (301) 492-6980.

SUPPLEMENTARY INFORMATION: The statement of functions of the Commission's Office of the Secretary, set forth in 16 CFR 1000.18, provides, among other matters, that "It also administers the Commission's public participation activities, including provisions for the financial compensation of participants, and manages activities of the Commission's advisory committees". The Commission has reassigned the public participation function to the Office of Public Affairs. The advisory committee management function for the Commission's remaining committees has been reassigned to the Directorate for Health Sciences. In addition, the Interagency Regulatory Liaison Group, referred to in section 1000.28, has been abolished. Therefore, section 1000.18 as well as section 1000.17, dealing with the Office of Public Affairs and section 1000.28, dealing with the Directorate for Health Sciences, are revised by this rule to reflect these organizational changes.

Since this rule relates solely to internal agency organization and management, the Administrative Procedure Act (APA) (5 U.S.C. 553) does not require the Commission to apply the notice and comment provisions of the APA. Further, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612, and thus is exempt from the provisions of that Act.

List of Subjects in 16 CFR Part 1000

Organization and functions (Government agencies).

Accordingly, Part 1000 of Title 16 of the Code of Federal Regulations is amended as shown.

PART 1000—COMMISSION ORGANIZATION AND FUNCTIONS

1. The authority citation for Part 1000 reads as follows:

Authority: 5 U.S.C. 552(a).

2. Section 1000.17 is revised to read as follows:

§ 1000.17 Office of Public Affairs.

The Office of Public Affairs is responsible for the development, implementation, and evaluation of a comprehensive national public affairs program designed to promote product safety. The Office develops and maintains relations with a wide range of national groups including: Consumer organizations; business groups; trade associations; state and local government organizations; labor organizations; medical, legal, scientific, and other professional associations; national print and broadcast media; and other Federal health, safety, and consumer affairs agencies. It also administers the Commission's public participation activities, including provisions for the financial compensation of participants.

3. Section 1000.18 is revised to read as follows:

§ 1000.18 Office of the Secretary.

The Office of the Secretary prepares the Commission's agenda, schedules and coordinates Commission business at official meetings, and records, issues, and stores the official records of Commission actions. The Office prepares and publishes the Public Calendar under the Commission's Meetings Policy. The Office exercises joint responsibility with the Office of the General Counsel for the interpretation and application of the Privacy Act, Freedom of Information Act, Federal Advisory Committee Act, and the Government in the Sunshine Act, and prepares or coordinates reports required by these acts. It issues Commission decisions, orders, rules, and other official documents, including **Federal Register** notices, for and on behalf of the Commission and controls the use of the Commission seal. The Office supervises and administers the dockets of adjudicative proceedings before the Commission. The Office also supervises and administers the public reading room.

4. Section 1000.28 is revised to read as follows:

§ 1000.28 Directorate for Health Sciences.

The Associate Executive Director for Health Sciences manages the Directorate for Health Sciences, which is responsible for management of the Commission's chronic hazards program, development and evaluation of the scientific content of product safety standards and test methods based on the chemical, biological and medical sciences, and the conduct and evaluation of specific product testing to support general agency regulatory activity. The Directorate provides scientific expertise to the Commission and it develops and evaluates performance criteria, design specifications, and quality control standards for certain consumer products. It conducts and evaluates scientific tests and test methods, participates in the scientific development of product safety standards, and provides advice on proposed standards. It collects scientific and technical data, reviews and evaluates toxicological and chemical hazards, and determines exposure, uptake and metabolism, including indentification of the toxicological and psychological bases which cause some population segments to be at special risk. It performs risk assessments for chemical and physical hazards in consumer products. It performs or monitors research, and conducts studies of the safety of or of improving the safety of consumer products. It provides the Commission's primary source of expertise for implementation of the Poison Prevention Packaging Act. It provides the Commission's expertise on manufacturing practices and quality assurance for chemical consumer products and it provides technical supervision to agency field chemistry laboratories and other chemical or toxicological testing facilities. It provides scientific and technical support to all commission organizations, activities, and programs. The Directorate provides technical liaison with the National Toxicological Program, the National Cancer Institute, the Environmental Protection Agency and other federal programs and organizations concerned with reducing the risks to consumers from exposure to chemical hazards. It also manages activities of the Commission's advisory committees. These committees are the Toxicological Advisory Board and the Chronic Hazard Advisory Panels.

Dated: September 20, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-26652 Filed 9-27-82; 8:45 am]

BILLING CODE 6355-01-M

SECURITIES AND EXCHANGE COMMMISSION

17 CFR Part 270

[Release No. IC-12678; S7-907]

Adoption of Permanent Exemptions From Certain Provisions of the Investment Company Act of 1940 for Registered Separate Accounts and Other Persons

AGENCY: Securities and Exchange Commission.

ACTION: Final rule adoption and technical rule amendments.

SUMMARY: The Commission is adopting a permanent rule providing registered separate accounts and other persons with exemptive relief from certain provisions of the Investment Company Act of 1940 and the rules thereunder to the extent necessary to permit them to organize new separate accounts and new portfolio investment companies and to engage in certain related transactions in response to Revenue Ruling 81-225. The Commission is also adopting related technical amendments to one of the general rules under the Act.

EFFECTIVE DATE: September 21, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas P. Lemke, Acting Special Counsel (202-272-2061), or Mary K. Crook, Attorney (202-272-3010), Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption, on a permanent basis, of rule 6c-6 [17 CFR 270.6c-6] ("permanent rule" or "rule") under the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq.*] ("Act"). The permanent rule is similar to rule 6c-6(T) [17 CFR 270.6c-6(T)], proposed by the Commission and adopted on an interim basis on October 2, 1981 (sometimes referred to herein as the "proposed rule") [1] in response to

[1] Investment Company Act Release No. 11970 (Oct. 2, 1981) [46 FR 49580] ("Release No. 11970"). Persons interested in a more detailed discussion of rule 6c-6(T) should refer to the Commission's prior release.

Revenue Ruling 81–225, 1981–41 I.R.B. (October 13, 1981) ("Revenue Ruling 81–225" or "Revenue Ruling"), although the permanent rule expands somewhat the scope of the exemptive relief provided by the proposed rule. The permanent rule provides registered insurance company separate accounts and other persons with exemptive relief from certain provisions of the Act and rules thereunder to the extent necessary to permit them: (i) to organize a new portfolio company and to substitute the shares of that company for the shares of an existing portfolio company or to make an exchange offer to contractowners whose securities are funded by the existing portfolio company; and (ii) to organize a new separate account and to make an exchange offer to contractowners of the existing separate account.[2] Additionally, the Commission is adopting related technical amendments to rule 0–1(e) [17 CFR 270.0–1(e)] of the General Rules and Regulations under the Act to make applicable to rule 6c–6 the definition of separate account and conditions for availablity of exemptions set forth in rule 0–1(e).

Background

On September 25, 1981, the Internal Revenue Service ("IRS") issued Revenue Ruling 81–225, which discusses the federal income tax status of earnings and gains derived from the shares of open-end investment companies [3] which are used to fund certain variable annuity contracts offered through insurance company separate accounts [4] organized and registered under the Act as unit investment trusts.[5] The IRS concluded that prior to the annuity starting date, the variable annuity contractowner, rather than the insurance company, will be deemed to be the owner of the shares of the open-end investment company for federal income tax purposes—and thus the earnings and gains from the shares are includible in the contractowner's gross income—where the contractowner has "investment control" over the shares and possesses sufficient other incidents of ownership of the shares.

The IRS deemed the contractowner to have "investment control" over the shares of the underlying investment company in those situations where the shares were available for purchase not only by prospective contractowners through their variable annuity contracts but also by other members of the general public. This treatment was appropriate, the IRS stated, because under these circumstances the contractowner's position "is substantially identical to what his or her position would have been" had the shares of the investment company been purchased directly. On the other hand, the IRS deemed the insurance company, rather than the contractowner, to have investment control where the shares of the investment company were not sold directly to the general public and were available for purchase by the public only through the purchase of a annunity contract. Under those circumstances, the IRS stated, the investment company "is nothing more than the alter ego" of the insurance company and the situation is equivalent, for federal income tax purposes, to a direct purchase by the contractowner of the assets of the underlying investment company. The IRS determined to apply the holding of the Revenue Ruling only to payments made into separate accounts after December 31, 1980, and excluded from the holding certain annuity contracts described in sections 403 (a) and (b) or 408(b) of the Internal Revenue Code provided that certain conditions were satisfied.[6]

Shortly after issuance of the Revenue Ruling, the Commission, recognizing that many separate accounts might deem it necessary to modify their operations in response to the Revenue Ruling and that such modifications might require exemptions from various provisions of the Act and rules thereunder, proposed for comment rule 6c–6 and adopted that rule on an interim basis as temporary rule 6c–6(T). The rule provided registered separate accounts and other persons with temporary exemptive relief to the extent necessary to permit them to organize a new portfolio investment company—the shares of which presumably would not be available for purchase other than through an annuity contract—and to substitute the shares of that portfolio investment company for the shares of an existing portfolio company.[7] The purpose of the temporary rule, the Commission explained, was to provide exemptive relief to registered separate accounts and other persons to the extent necessary to permit them to take certain actions to facilitate the continuation of investment plans which might otherwise be disrupted by the impact of the Revenue Ruling.

Discussion

In Investment Company Act Release No. 11970 (October 2, 1981) [46 FR 49580] ("Release No. 11970"), the Commission requested comments generally on proposed rule 6c–6 and specifically on whether any additional or different exemptive relief was necessary or appropriate for inclusion in the proposed rule prior to its adoption on a permanent basis. In response, the Commission received letters from seven commentators. None of the commentators disapproved of the concept underlying the proposal, although three commentators expressed specific objections to one or more provisions of the proposed rule and all seven commentators suggested that the scope of the exemptive relief granted by

[2] The terms "existing separate account," "new separate account," "existing portfolio company," and "new portfolio company" are defined in paragraph (a) of rule 6c–6. *See* notes 23–26, *infra*.

[3] Section 3 of the Act [15 U.S.C. 80a–3], in relevant part, defines "investment company" as any issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities. An "open-end company" is defined by section 5(a)(1) of the Act [15 U.S.C. 80a–5(a)(1)] as a management company which is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 4(3) of the Act [15 U.S.C. 80a–4(3)] defines a "management company" as any investment company other than a face-amount certificate company or a unit investment trust.

[4] A "separate account" is defined in section 2(a)(37) of the Act [15 U.S.C. 80a–2(a)(37)] as an account established and maintained by an insurance company pursuant to the laws of any state or other governmental entity of the United States or Canada under which income, gains, or losses, whether or not realized, from the assets of such account are, in accordance with the terms of the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company. A substantially identical definition of "separate account," as that term is used in various rules under the Act, is contained in rule 0–1(e)(1) under the Act [17 CFR 270.0–1(e)(1)].

[5] A "unit investment trust" is defined by section 4(2) of the Act [15 U.S.C. 80a–4(2)] as an investment company which (1) is organized under a trust indenture, contract of custodianship or agency, or similar instrument, (2) does not have a board of directors, and (3) issues only redeemable securities, each of which represents an undivided interest in a unit of specified voting securities, but does not include a voting trust.

[6] On February 3, 1982, the IRS, in response to problems encountered by issuers of certain annuities attempting to comply with the reporting requirements imposed by the Revenue Ruling, issued Announcement 82–36, 1982–9 I.R.B. (March 1, 1982), which extended the time period for certain filings necessitated by Revenue Ruling 81–225 and, with respect to capital gains, dividends, and unrealized appreciation earned in connection with certain annuity contracts, limited the applicability of the holding of Revenue Ruling 81–225 to such amounts realized or existing after December 31, 1981.

[7] Release No. 11970, *supra*. Previously, the Commission had issued a general statement of policy of its Division of Investment Management concerning the effects and implications of the Revenue Ruling under the federal securities laws which, among other things, recognized that the sponsors of variable annuity separate accounts whose contractowners were affected by the Revenue Ruling might need to modify their methods of operation and that, in this regard, emergency exemptive relief might be appropriate. Investment Company Act Release No. 11960 (Sept. 28, 1981) [46 FR 48640].

the proposed rule should be expanded in various regards. Based on those suggestions and upon its reconsideration of several provisions of the proposed rule, the Commission has determined to adopt a modified version of the rule,[8] as discussed *infra*.[9] The main points raised by the commentators and the aspects of the rule reconsidered by the Commission are discussed below.

1. *Scope of Exemptive Relief.* The proposed rule provided exemptive relief only with respect to the organization of a new portfolio company to fund an existing separate account, where the new portfolio company was designed to minimize the impact of the Revenue Ruling. Several commentators suggested that the proposed rule be expanded to include the relief necessary to permit an insurance company to create a new separate account, either as a new registered investment company or as part of an existing registered investment company, and to allow such new separate account to make an offer to the contractowners of the existing separate account to exchange their securities for securities of the new separate account. These commentators believed that because of ambiguities in the Revenue Ruling, it may be necessary to create not only a new portfolio company but also a new separate account in order to prevent contractowners from being deemed the owners, for Federal income tax purposes, of the securities of the underlying investment company.

In response to these comments, the Commission has expanded the scope of the exemptive relief granted by the rule to include the relief necessary to permit an insurance company to organize a new separate account and to permit that separate account to make an exchange offer to contractowners of the existing separate account. In order to qualify for the exemptive relief, the separate account would have to be substantially identical in all material respects to the existing separate account which is operating pursuant to an effective registration statement and which has secured all necessary exemptive relief.[10] Similarly, the Commission believes that it may be appropriate for such a new separate account to make an exchange offer to contractowners of the existing separate account, provided generally that the offer is made on the basis of the relative net asset values of the securities to be exchanged without the imposition of any fees or charges.[11] The exemptive relief necessary to permit insurance companies to proceed in the manner described above has been added as paragraphs (c) and (k) of the permanent rule. As it did in Release No. 11970, *supra*, however, the Commission emphasizes that it is not expressing any views on the legal or Federal income tax implications, or the appropriateness as a business matter, of engaging in the above described transactions or of any other actions which might be taken by registered separate accounts in response to the Revenue Ruling.[12]

One commentator suggested that the proposed rule be expanded to provide the exemptive relief necessary to permit an existing separate account organized as a unit investment trust to organize a new separate account in the form of a management investment company that would otherwise qualify as a "new portfolio company" under the rule. The Commission has considered this suggestion, but believes that it is appropriate to limit the availability of the rule's exemptive relief to situations where the new separate account, or new portfolio company, is substantially identical in all material respects, including its classification under the Act, to a predecessor entity that had obtained all necessary exemptive relief.[13] Although the Commission has decided not to amend the rule in this regard, it will, or course, entertain applications for exemptive relief necessary to permit an insurance company to proceed in the manner described by the commentator.

2. *Substitution of Securities.* Two commentators objected to the requirement of paragraph (f)(3) of the proposed rule that if securities of a new portfolio company were substituted for securities of an existing portfolio company and the substitution was exempted from section 26(b) of the Act[14] pursuant to paragraph (f)(3), contractowners of the registered separate account who would otherwise have the right to redeem their contracts must be given the right, for a period of at least 30 days, to redeem their contracts without the imposition of any withdrawal charge or contingent deferred sales load (hereinafter the "thirty day requirement"). According to these commentators, the thirty day requirement brings federal securities regulation into conflict with state insurance company regulation because this requirement impairs the surplus of the insurance company. After consideration of this comment the Commission continues to believe that the thirty day requirement is necessary and appropriate, and it has been retained in paragraph (h)(3) of the permanent rule. Because of the involuntary nature, from the contractowner's perspective, of a substitution effected in reliance on the rule, the Commission believes that the imposition of a withdrawal charge or contingent deferred sales load would be inappropriate in a situation where, for example, a contractowner determines to redeem his contract because he believes that a substitution effected in response to the Revenue Ruling has diminished the value of his contract. Moreover, it is unclear whether there is any real possibility that the thirty day requirement would, in fact, impair surplus, and, even assuming the validity of the commentators' claim, the Commission notes that the procedure contemplated in paragraph (h)(3)—that is, a substitution of securities pursuant to section 26(b) of the Act—is not compulsory nor is it the sole means of providing contractowners with an

[8] On March 18, 1982, the IRS announced Revenue Rulings 82–54 and 82–55, 1982–14 I.R.B. (April 5, 1982), two additional rulings concerning the ownership, for federal income tax purposes, of the shares of an underlying investment company held by an insurance company in connection with certain variable annuity contracts. The Commission does not believe that those rulings affect the appropriateness of adopting rule 6c–6.

[9] Concurrent with its adoption of the permanent rule, the Commission is withdrawing rule 6c–6(T). Of course, any transactions consummated in reliance on rule 6c–6(T) are still valid even if the same transaction would not, pursuant to the permanent rule, be exempted from the Act and the rules thereunder. For example, if a new portfolio company was organized pursuant to rule 6c–6(T), orders of the existing separate account will remain in full force and effect even if the disclosure required by paragraph (b)(4) of the permanent rule is not included in Part II of the existing separate account's Registration Statement under the Securities Act of 1933 (*see* discussion in text accompanying note 19, *infra*), provided that the requirements of paragraph (b) of the temporary rule were satisfied.

[10] The necessary relief would include, for example, the various "start-up" exemptions from sections 26(a) and 27(c)(2) of the Act [15 U.S.C. 80a–26(a) and 80a–27(c)(2)] concerning the payment of fees and charges from the assets of the separate account and custodianship activities.

[11] A more complete discussion of the conditions which must be satisfied by a new separate account desiring to make an exchange offer in reliance upon the rule is set forth in the text accompanying notes 31–33, *infra*.

[12] The Commission also is not expressing any views on the possible effect of Revenue Rulings 82–54 and 82–55 on such transactions or other action.

[13] In the situation described by the commentator, the separate account organized as a management company would require exemptions from sections 26(a) and 27(c)(2) of the Act to permit the withdrawal of the management fee from the assets of the separate account. The existing separate account would not have obtained such relief because, being a unit investment trust, it would not have imposed a management fee.

[14] 15 U.S.C. 80a–26(b). Section 26(b) of the Act provides, in part, that: "It shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved the substitution."

alternative funding medium. Other methods are available, such as an offer of exchange under section 11 of the Act, which would not require the insurance company to permit contract redemptions without the imposition of a withdrawal charge or a contingent deferred sales load.

In this regard, the Commission has determined that it is appropriate to expand the scope of the exemptive relief included in the permanent rule to provide the relief necessary to permit a separate account to make an exchange offer and thereby avoid the thirty day requirement. Accordingly, the Commission, in paragraph (j) of the permanent rule, has included an exemption from section 11 of the Act [15] to the extent necessary to permit an existing separate account to offer its contractowners the right to exchange a security funded by the existing portfolio company for a security of the same separate account funded by a new portfolio company without the terms of that offer having first been submitted to and approved by the Commission, provided that the exchange is made on the basis of the relative net asset values of the securities to be exchanged without the imposition of any fees or charges.[16] Since any such exchange would be voluntary on the part of the contractholder, the Commission believes that under these circumstances the thirty day requirement would be unnecessary. Comparable exemptive relief from section 11 with respect to an exchange offer by a new separate account to the contractowners of an existing separate account has been included in paragraph (k) of the rule, as discussed *infra*.

One commentator suggested that a registered separate account making a substitution of securities after a specified time period, such as, for example, from six months to one year from the issuance date of the Revenue Ruling, should not be required to comply with the thirty day requirement. The Commission believes that the mere passage of time will not alleviate the possibly detrimental impact on contractowners of an involuntary substitution, and, accordingly, no change in this regard has been made in the rule.

Another commentator, arguing that section 26(b) of the Act requires Commission approval of a substitution of securities involving a unit investment trust only where the trust holds securities of a single issuer, recommended that the Commission take the position that the substitution of securities of a new portfolio company for securities of an existing portfolio company, without prior Commission approval, would violate section 26(b) of the Act only where such existing company's securities are the only securities held by the separate account. However, the Commission has determined not to reexamine at this time its position that prior Commission approval is required for a substitition of securities in any subaccount of a registered separate account.

Finally, one commentator urged the Commission to expand its interpretation, as set forth in Release No. 11970, *supra*, of changes that it would not consider "material" for purposes of paragraph (b)(1) of the rule, and suggested several examples.[17] The Commission has examined this comment and believes that solely for the purposes of paragraphs (b)(1) and (c)(1) of rule 6c–6, the following changes, in addition to the change recited in Release No. 11970, *supra*, are not "material": the replacement of the existing portfolio company's investment adviser with the sponsoring insurance company or an affiliated person thereof; the fact that an investment adviser of a new portfolio company has an agreement with a sub-adviser for the new portfolio company, the elimination of any exchange or transfer rights; and the cessation of sales to the public of securities of the existing portfolio investment company other than through the purchase of an annuity contract.

3. *Other Comments.* One commentator interpreted paragraph (c) of the proposed rule and related discussion in Release No. 11970, *supra*, as an assertion by the Commission that any affiliated person of an existing portfolio company who participates in the creation of a new portfolio company is, merely by virtue of such participation, in violation of section 17(d) of the Act and rule 17d–1 thereunder.[18] As the proposing release makes clear, however, the term "organization," as used in the proposed rule, contemplated not merely the creation of a new portfolio company, as indicated by the commentator, but both the creation of such a company and the substitution of the shares of that company for the shares of an existing portfolio company. Furthermore, the Commission did not take the position that such transactions would require exemptive orders in all cases; the Commission merely stated that exemptive relief might be required, depending upon the individual circumstances involved. Accordingly, the relevant terminology has been retained in paragraph (d) of the rule.

The same commentator, believing that the definition of "new portfolio company" in the proposed rule could be interpreted to require that such a company must be one that is created subsequent to the issuance of the Revenue Ruling, also recommended that the Commission clarify in the permanent rule that a pre-existing registered investment company could qualify as a new portfolio company. In response to this comment and in order to clarify the point, the Commission has modified the definition of "new portfolio company" set forth in paragraph (a)(4) of the rule to provide that a new portfolio company shall mean any registered open-end management company the shares of which will be sold to one or more registered separate accounts for the purpose of minimizing the impact of the Revenue Ruling, rather than an investment company "designed" to minimize the impact of that ruling as was provided in paragraph (a)(4) of the proposed rule.

4. *Other Modifications.* Upon reconsideration of several provisions of

[15] 15 U.S.C 80a–11. Section 11(a) of the Act [15 U.S.C. 80a–11(a)] makes it unlawful for any registered open-end 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 company to exchange his security of such company for a security of the same or another such company on any basis other than the relative net asset values of the securities to be exchanged, unless the terms of the offer have first been approved by the Commission. Section 11(c) of the Act [15 U.S.C. 80a–11(c)] provides, among other things, that an offer of exchange involving a security of a registered unit investment trust is subject to the provisions of section 11(a) irrespective of the basis of the exchange.

[16] Under paragraph (b) of the proposed rule, separate accounts that had previously obtained exemptive orders from section 11 of the Act would have been permitted to make such exchanges without prior Commission approval. Paragraph (j) of the permanent rule will provide exemptive relief for such exchange offers irrespective of whether prior Commission approval has been obtained.

[17] In Release No. 11970, *supra*, the Commission expressed its view that the fact that an insurance company or an affiliated person thereof (rather than the investment adviser to an existing portfolio company) serves as the new portfolio company's investment adviser would not be deemed a material change for purposes of paragraph (b) of the proposed rule.

[18] 15 U.S.C. 80a–17(d) and 17 CFR 270.17d–1. Section 17(d) of the Act and rule 17d–1 thereunder provide, in part, that it shall be unlawful for any affiliated person of or principal underwriter for a registered investment company, or any affiliated person of such a person or principal underwriter, acting as principal to effect any transaction in which such registered company, or a company controlled by such registered company, is a joint or a joint and several participants unless an application regarding such joint enterprise or arrangement has been filed with, and an appropriate order has been granted by, the Commission.

the proposed rule, the Commission has determined to make five modifications in addition to those described above. The first such modification relates to the manner in which certain information must be filed with the Commission in order for an existing separate account to rely on rule 6c–6 and the nature of the information to be provided in that filing. Paragraph (b)(4) of the permanent rule has been modified to require a list of the Investment Company Act release numbers of any Commission orders upon which the existing separate account intends to rely, rather than a description of the new portfolio company as required by the proposed rule; and, that this information, along with the other information required by the proposed rule, be included in Part II of the existing separate account's Registration Statement under the Securities Act of 1933,[19] rather than in a letter to be placed in the Commission's public files as required by the proposed rule. The Commission believes that the former change will facilitate its administration of the permanent rule, while the latter change will reduce compliance costs for separate accounts by eliminating the necessity of preparing and transmitting a separate document to the Commission and will make the required information, which will become part of the Commission's permanent record, more accessible both to the general public and to the Commission's staff. With regard to the latter change, the Commission believes that compliance with paragraph (b)(4) of the rule would not require a special filing by the existing separate account but rather that the required information may be included in the separate account's next post-effective amendment.

The second modification specifies the period of time within which actions in reliance on the rule must be taken. While the proposed rule contained no express limitation on the time period within which actions in reliance thereon must be taken, implicit in that rule is the notion that any actions taken in reliance on the exemptive relief provided therein, because they would be in response to the extraordinary circumstances created by the Revenue Ruling, would be taken within a reasonable time period after the issuance of the Revenue Ruling. In order to clarify any doubt regarding this point, the Commission, in paragraph (1) of the rule, has specified that the exemptive relief provided by the rule with respect to the organization of new portfolio companies and new separate accounts shall be available only to those entities that are registered under the Act prior to September 21, 1983—one year from the effective date of rule 6c–6.[20] This time period also is applicable to the exemptive relief provided to certain related persons with respect to a substitution of securities of a new portfolio company for securities of an existing portfolio company effected in reliance on the rule.

The third modification includes the addition in paragraph (f) of the rule of exemptive relief from section 17(a) of the Act[21] and rule 18f–1[22] to the extent necessary to permit transactions involving the transfer of part of the assets of an existing portfolio company to a new portfolio company. While the proposed rule did not specifically provide the relief necessary to permit an insurance company sponsor to redeem in kind from the existing company only those assets attributable to variable annuity contracts affected by the Revenue Ruling and subsequently to use those assets to purchase the shares of the new portfolio company, it has come to the Commission's attention that at least one insurance company believes that such a transfer is within the spirit of rule 6c–6(T). Since the Commission believes that such a transfer would be an appropriate response to the Revenue Ruling, particularly in light of the fact that this type of transfer would eliminate brokerage commissions and thereby benefit contractowners, it has included in paragraph (f) of the rule explicit relief from section 17(a) which, absent an order pursuant to section 17(b) [15 U.S.C. 80a–17(b)], may prohibit some or all of the transactions attendant upon such a transfer. In addition, the Commission has included in paragraph (f) exemptive relief from rule 18f–1 to the extent necessary to permit existing portfolio companies that have elected pursuant to that rule to pay certain redemptions in cash to revoke that election and make a redemption in kind.

The relief provided by paragraph (f) is conditioned in four respects. First, the transfer must be made without the imposition of any fees or charges. Second, the board of directors of the existing portfolio company must determine that the assets to be transferred are selected in a manner that is fair and reasonable to all shareholders of the company. Third, any securities involved must be valued by the existing portfolio company, for purposes of the transfer, in accordance with its valuation practices for determining net asset value per share. Finally, with respect to rule 18f–1, the existing portfolio company can redeem in kind those of its shares held by the existing separate account only if such a redemption is requested by the separate account.

Fourth, the Commission has deleted from the rule the requirement of paragraph (c)(2) of the proposed rule that determinations by the boards of directors of both the existing and the new portfolio company that any expenses borne by their respective companies in connection with the organization of one or more new portfolio companies are necessary and appropriate and allocated fairly, and the bases upon which these determinations were made, must be recorded in the minute books of the respective companies and disclosed in the existing portfolio company's prospectus. While the Commission believes that these determinations, and the bases upon which they were made, may be material for disclosure purposes and may be appropriate for inclusion in the minute books, the boards of directors of the respective companies are responsible for making these decisions in the context of their individual circumstances.

Finally, the Commission has made a number of technical changes to the proposed rule. For example, the term "existing separate account" has been substituted for "registered separate account" in order to distinguish more clearly such a separate account from a "new separate account" under the rule. Various other non-substantive changes have been made in order to clarify the rule.

[19] Similar informational requirements have been incorporated into paragraphs (c) and (g) of the permanent rule, relating to reliance by new separate accounts and new portfolio companies on Commission orders granting exemptive relief to existing separate accounts and existing portfolio companies.

[20] Although the exemptive relief provided by the rule will not be available to any such entities registered after September 21, 1983, it will, of course, continue in effect subsequent to that date for entities which registered prior to that date and which relied on the rule.

[21] 15 U.S.C. 80a–17(a). Section 17(a) of the Act provides, in relevant part, that it shall be unlawful for any affiliated person or promoter of or principal underwriter for a registered investment company, or any affiliated person of such person, promoter, or principal underwriter, acting as principal knowingly to sell any security or other property to such registered company or to any company controlled by such registered company, except under certain circumstances, and makes it unlawful for such persons knowingly to purchase from such registered company or from any company controlled by such company, any security or other property.

[22] 17 CFR 270.18f–1. Rule 18f–1 provides an exemption from certain requirements of section 18(f)(1) of the Act [15 U.S.C. 80a–18(f)(1)] for registered open-end investment companies which have the right to redeem in kind. *See* Investment Company Act Release No. 6561 (June 14, 1971) [35 FR 11919].

Final Rulemaking

1. *Rule 6c–6.* Rule 6c–6 provides separate accounts and certain other persons with permanent exemptive relief from various provisions of the Act and rules thereunder to the extent necessary to permit them to: (1) Organize a new portfolio company and to substitute shares of that company for the shares of an existing portfolio company or to make an exchange offer to contractowners whose securities are funded by the existing portfolio company; and (2) organize a new separate account and to make an exchange offer to contractowners of the existing separate account. Paragraph (a) of the rule defines various terms used in the rule.

Paragraph (b) of the rule provides that any existing order of the Commission under the Act, granted to an existing separate account [23] on or before September 25, 1981—the issuance date of the Revenue Ruling—shall remain in full force and effect notwithstanding that the existing separate account invests in one or more new portfolio companies [24] in lieu of, or in addition to, investing in one or more existing portfolio companies [25] provided, generally, that no material changes have occurred in the facts, undertakings, or conditions upon which the order was based and that certain information is included in Part II of the existing separate account's Registration Statement. Paragraph (c) of the rule provides similar relief with respect to any existing order of the Commission under the Act granted to an existing separate account as that order shall apply to the new separate account [26] and the depositor of and principal underwriter for such account.

Paragraph (d) of the rule (paragraph (c) of the proposed rule) provides certain affiliated persons of an existing portfolio company and a new portfolio company with an exemption from section 17(d) of the Act and rule 17d–1 thereunder to the extent necessary to permit them to bear certain expenses in connection with the organization of one or more new portfolio companies. This exemptive relief is conditioned upon any such expenses being necessary and appropriate and allocated in a manner that is fair and reasonable to all of the shareholders of these companies.[27] As noted *supra*, the permanent rule, unlike the proposed rule, does not specifically require that any determinations by the boards of directors of the respective companies with respect to the bearing of these expenses must be included in the companies' minute books and, in the case of the existing separate account, disclosed in its prospectus.

Paragraph (e) of the rule (paragraph (d) of the proposed rule) provides certain affiliated persons of the new or existing separate account, including the sponsoring insurance company, with exemptive relief from section 17(d) and rule 17d–1 thereunder to the extent necessary to permit them to bear any reasonable expenses arising out of the organization of one or more new portfolio companies or the new separate account. Paragraph (f), as discussed *supra*, provides exemptive relief from section 17(a) of the Act and rule 18f–1 of the Act to the extent necessary to permit transactions involving the transfer of part of the assets of an existing portfolio company to a new portfolio company.

Paragraph (g) of the rule (paragraph (e) of the proposed rule) provides a new portfolio company with an exemption from section 2(a)(41) of the Act and rules 2a–4 and 22c–1 under the Act [28] to the extent necessary to permit it to use the same method of valuation for the purpose of pricing its shares for sale, redemption, and repurchase as that used by the existing portfolio company, provided that certain conditions are satisfied. This relief is conditioned, generally, upon the new portfolio company agreeing to all the representations, undertakings, and conditions made or agreed to by the existing portfolio company in connection with any pricing order it has obtained.

Paragraph (h) of the rule (paragraph (f) of the proposed rule) exempts the depositor or trustee of an existing separate account from section 26(b) of the Act to the extent necessary to permit the substitution of securities of the new portfolio company for securities of the existing portfolio company provided that, within thirty days of the substitution, certain conditions are met. First, the existing separate account must notify all contractowners of the substitution of securities [29] and of any determinations of the board of directors of the new portfolio company required to be made by paragraph (d) of the rule. Second, all contractowners must receive a copy of the new portfolio company's prospectus. Finally, the existing separate account must comply with the thirty day requirement, as discussed *supra*.[30]

---

[23] An "existing separate account" is defined in paragraph (a)(2) of the rule as a separate account which is, or is a part of, a unit investment trust registered under the Act, and which was engaged in a continuous offering of its securities on September 25, 1981.

[24] A "new portfolio company" is defined in paragraph (a)(4) as a registered open-end management investment company the shares of which will be sold to one or more registered separate accounts for the purpose of minimizing the impact of the Revenue Ruling on contractowners of an existing separate account and which has the same investment objectives, fundamental policies, and voting rights as the existing portfolio company, and has an advisory fee schedule including expenses assumed by the adviser, that is at least as advantageous to the new portfolio company as was the fee schedule of the existing portfolio company.

[25] An "existing portfolio company" is defined in paragraph (a)(3) as a registered open-end management investment company that was engaged in a continuous offering of its securities on September 25, 1981, all or part of whose securities were owned by an existing separate account on that date.

[26] A "new separate account" is defined in paragraph (a)(5) as a separate account which (i) is, or is a part of, a unit investment trust registered under the Act, (ii) is intended to minimize the impact of the Revenue Ruling on the contractowners of an existing separate account, (iii) invests solely in one or more new portfolio companies, (iv) has the same sales loads, depositor, and custodial arrangements as the existing separate account, and (v) has asset charges and administrative and other fees (not including taxes) that correspond only to fees and charges of the existing separate account and are no greater than those corresponding fees and charges.

[27] Expenses of organizing the new portfolio company include, among other things, expenses associated with the redemption of the existing separate account's interests in the existing portfolio company and, if the redemption is in cash, expenses associated with the initial investment of the assets of the new portfolio company.

[28] 15 U.S.C. 80a–2(a)(41) and 17 CFR 270.2a–4 and 270.22c–1. Section 2(a)(41) and rules 2a–4 and 22c–1 specify certain procedures for registered investment companies to follow in pricing their shares for sale, redemption, and repurchase. These procedures, as interpreted in Investment Company Act Release Nos. 5847 (Oct. 21, 1969) [35 FR 19989], 6295 (Dec. 23, 1970) [35 FR 19986], and 9786 (May 31, 1977) [42 FR 28999], require portfolio securities to be valued at current market value and the price per share to be computed to within one-tenth of one percent. On numerous occasions the Commission has granted exemptive relief from this section and these rules in order to permit certain investment companies, subject to certain conditions, to use methods of valuation, such as amortized cost or "penny-rounding," that do not conform to these procedures.

[29] Although paragraph (h) of the rule allows an existing separate account up to thirty days in which to notify contractowners of a substitution of securities, an existing separate account that is otherwise required by the terms of its trust indenture or other agreement to provide such notice within a shorter period of time would still be required to do so. *See* section 26(a)(4)(B) of the Act [15 U.S.C. 80a–26(a)(4)(B)]. However, the Commission has included exemptive relief from this provision in paragraph (i) of the rule to the extent necessary to permit an existing separate account to rely on paragraph (h) of the rule, provided, of course, that applicable state law would permit the separate account to modify its trust indenture or other agreement in such a manner.

[30] *See* discussion in text accompanying note 14, *supra*. Since the elimination of any contingent deferred sales load might be deemed to violate section 22(d) of the Act [15 U.S.C. 80a–22(d)], which prohibits the sale of any security of a registered investment company to the public at a price other than the current public offering price described in the company's prospectus, paragraph (i) of the rule (paragraph (g) of the proposed rule) exempts an existing separate account from section 22(d) to the extent necessary to permit it to comply with paragraph (h) of the rule.

Paragraph (j) of the rule provides that, notwithstanding section 11 of the Act, an existing separate account and certain related persons may make an offer to contractowners to exchange a security funded by an existing portfolio company for a security funded by a new portfolio company without the terms of that offer having first been submitted to and approved by the Commission, provided that the exchange is to be made on the basis of the relative net asset values of the securities being exchanged without the imposition of any fees or charges.

Paragraph (k) and subparagraph (k)(1) of the rule provide similar relief with respect to offers to exchange securities of a new separate account for securities of an existing one, provided, again, that the exchange is to be made on the basis of the relative net asset values of the securities to be exchanged without the imposition of any fees or charges. While this proviso would, of course, prevent a withdrawal charge or contingent deferred sales load from being imposed upon redemption of securities in the existing separate account, paragraph (k)(2) permits a contingent deferred sales load to be imposed upon redemption of securities in the new separate account, to the extent that these securities were transferred from the existing separate account, subject to certain conditions. First, if the computation of the sales load is based on the amount of time the contractowner has been a holder of a security of the new separate account, paragraph (k)(2)(i)(A) provides that a contractowner must be treated as if he was a contractowner of the new separate account as of the date he became a contractowner of the existing separate account.[31] Similarly, if the computation of the contingent deferred sales load is based on the period of time that the contractowner's purchase payments have been invested in the new separate account, paragraph (k)(2)(i)(B) provides that amounts attributable to purchase payments made to the existing separate account must be treated as if they were made to the new separate account as of the date they were made to the existing separate account.[32]

Paragraph (k)(2)(i) is intended to codify Commission orders in this area and is designed to insure that, for purposes of computing a contingent deferred sales load, a contractowner is not adversely affected by an exchange. Second, irrespective of the manner in which the contingent deferred sales load is computed, paragraph (k)(2)(ii) provides that the total sales load must not exceed 9 percent of the sum of the purchase payments made to the new separate account and that portion of the purchase payments made to the existing separate account attributable to the securities exchanged.[33] This second condition is intended to limit the sales load that might be imposed on appreciation in both the existing separate account and the new separate account.

Finally, paragraph (l) as discussed *supra*, specifies that the exemptive relief granted by the rule with respect to the organization of any new separate account or new portfolio company or to certain persons related to those entities, and to any substitution of securities effected in reliance on the rule, is available only to such entities registered or substitutions effected prior to September 21, 1983.

2. *Amendments to rule 0–1(e).* Rule 0–1 of the General Rules and Regulations under the Act defines various terms used in those rules and regulations. Rule 0–1(e) defines the term "separate account" and sets forth the conditions for availability of exemptive relief for separate accounts pursuant to various of those rules. The Commission is amending rule 0–1(e) to include rule 6c–6 as one of the rules listed therein.

Procedural Matters—Rule 0–1(e)

The Commission considers the foregoing amendments to rule 0–1(e) under the Act to be technical, rather than substantive, modifications of that rule. Accordingly, the Commission, pursuant to section 4(b) of the Administrative Procedure Act [5 U.S.C. 553(b)], for good cause, finds that prior notice and comment on the amendments to rule 0–1(e) are unnecessary. In addition, the Commission, pursuant to section 4(d) of the Administrative Procedure Act [5 U.S.C. 553(d)], finds good cause to adopt those amendments, effective immediately, because they are technical in nature.

List of Subjects in Part 270

Investment companies, Reporting requirements, Securities.

Text of Rule 6c–6 and Amendments to Rule 0–1(e)

PART 270—FORMS AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

1. By revising paragraphs (e) introductory text and (e)(2) of § 270.0–1 to read as follows:

§ 270.0–1 Definition of terms used in the rules and regulations.

* * * * *

(e) Definition of separate account and conditions for availability of exemptions under §§ 270.6c–6, 270.14a–2, 270.15a–3, 270.16a–1, 270.22d–3, 270.22e–1, 270.27a–1, 270.27a–2, 270.27a–3, 270.27c–1, and 270.32a–2, of this chapter.

* * * * *

(2) As conditions to the availability of exemptive Rules 6c–6, 14a–2, 15a–3, 16a–1, 22d–3, 22e–1, 27a–1, 27a–2, 27a–3, 27c–1, and 32a–2, the separate account shall be legally segregated, the assets of the separate account shall, at the time during the year that adjustments in the reserves are made, have a value at least equal to the reserves and other contract liabilities with respect to such account, and at all other times, shall have a value approximately equal to or in excess of such reserves and liabilities; and that portion of such assets having a value equal to, or approximately equal to, such reserves and contract liabilities shall not be chargeable with liabilities arising out of any other business which the insurance company may conduct.

* * * * *

§ 270.6c–6(T) [Removed]

2. By removing §270.6c–6(T).

3. By adding § 270.6c–6 to read as follows:

§ 270.6c–6 Exemption for certain registered separate accounts and other persons.

(a) As used in this section,

(1) "Revenue Ruling" shall mean Revenue Ruling 81–225, 1981–41 I.R.B. (October 13, 1981), issued by the Internal Revenue Service on September 25, 1981.

(2) "Existing separate account" shall mean a separate account which is, or is

[31] Under this paragraph, for example, if the new separate account imposes a contingent deferred sales load on all redemptions made in the first five contract years and does not impose a sales load on redemptions after the fifth contract year, no sales load could be imposed on acquired securities redeemed by a contractowner more than five contract years after he became a contractowner of the existing separate account, even if he became a contractowner of the new separate account less than five contract years prior to redemption.

[32] Under this paragraph, for example, if the new separate account imposes a contingent deferred sales load on all redemptions attributable to purchase payments made to the new separate account within five years of the redemption request, no sales load could be imposed on amounts redeemed by a contractowner from the new separate account that are attributable to purchase payments made to the existing separate account more than five years prior to the redemption, even if the amounts had been invested in the new separate account for fewer than five years.

[33] Of course, for the purpose of this subsection, the amount transferred from the existing separate account to the new separate account in connection with the exchange is not a "purchase payment made to the new separate account."

a part of, a unit investment trust registered under the Act, engaged in a continuous offering of its securities on September 25, 1981.

(3) "Existing portfolio company" shall mean a registered open-end management investment company, engaged in a continuous offering of its securities on September 25, 1981, all or part of whose securities were owned by an existing separate account on September 25, 1981.

(4) "New portfolio company" shall mean any registered open-end management investment company the shares of which will be sold to one or more registered separate accounts for the purpose of minimizing the impact of the Revenue Ruling on the contractowners of an existing separate account, which new portfolio company has the same:

(i) Investment objectives,

(ii) Fundamental policies, and

(iii) Voting rights as the existing portfolio company and has an advisory fee schedule, including expenses assumed by the adviser, that is at least as advantageous to the new portfolio company as was the fee schedule of the existing portfolio company.

(5) "New separate account" shall mean a separate account which

(i) Is, or is a part of, a unit investment trust registered under the Act;

(ii) Is intended to minimize the impact of the Revenue Ruling on the contractowners of an existing separate account;

(iii) Invests solely in one or more new portfolio companies;

(iv) Has the same

(A) Sales loads,

(B) Depositor, and

(C) Custodial arrangements

As the existing separate account; and

(v) Has

(A) Asset charges,

(B) Administrative fees, and

(C) Any other fees and charges (not including taxes) that correspond only to fees of the existing separate account and are no greater than those corresponding fees.

(b) Any order of the Commission under the Act, granted to an existing separate account on or before September 25, 1981, shall remain in full force and effect notwithstanding that the existing separate account invests in one or more new portfolio companies in lieu of, or in addition to, investing in one or more existing portfolio companies; *Provided,* That:

(1) No material changes in the facts upon which the order was based have occurred;

(2) All representations, undertakings, and conditions made or agreed to by the existing separate account, and any other person or persons, other than any existing portfolio company, in connection with the issuance of the order are, and continue to be, applicable to the existing separate account and any such other person or persons, unless modified in accordance with this section;

(3) All representations, undertakings, and conditions made or agreed to by the existing portfolio company in conection with the issuance of the order are made or agreed to by the new portfolio company, unless modified in accordance with this section; and

(4) Part II of the Registration Statement under the Securities Act of 1933 of the existing separate account

(i) Indicates that the existing separate account is relying upon paragraph (b) of this section,

(ii) Lists the Investment Company Act release numbers of any orders upon which the existing separate account intends to rely, and

(iii) Contains a representation that the provisions of this paragraph (b) have been complied with.

(c) Any order of the Commission under the Act, granted to an existing separate account on or before September 25, 1981, shall apply with full force and effect to a new separate account and the depositor of and principal underwriter for the new separate account notwithstanding that the new separate account invests in one or more new portfolio companies; *Provided,* That:

(1) No material changes in the facts upon which the order was based have occurred;

(2) All representations, undertakings, and conditions made or agreed to by the depositor, principal underwriter, and any other person or persons other than the existing separate account or any existing portfolio companies, in connection with the issuance of the order are, and continue to be, applicable to such depositor, principal underwriter, and other person or persons, unless modified in accordance with this section;

(3) All representations, undertakings and conditions made or agreed to by the existing separate account in connection with the issuance of the order are made or agreed to by the new separate account, unless modified in accordance with this section;

(4) All representations, undertakings, and conditions made or agreed to by an existing portfolio company in connection with the issuance of the order are made or agreed to by the new portfolio company, unless modified in accordance with this section; and

(5) Part II of the Registration Statement under the Securities Act of 1933 of the new separate account.

(i) Indicates that the new separate account is relying upon paragraph (c) of this section,

(ii) Lists the Investment Company Act release numbers of any orders upon which the new separate account intends to rely, and

(iii) Contains a representation that the provisions of this paragraph (c) have been complied with.

(d) Any affiliated person or depositor of or principal underwriter for a new or existing separate account or any affiliated person of or principal underwriter for a new or existing portfolio company, and any affiliated person of such persons, principal underwriters, or depositor shall be exempt from section 17(d) of the Act [15 U.S.C 80a–17(d)] and rule 17d–1 thereunder [17 CFR 270.17d–1] to the extent necessary to permit the organization of one or more new portfolio companies; *Provided,* That, any expense borne by the existing portfolio company or the new portfolio company in connection with such organization are necessary and appropriate and are allocated in a manner that is fair and reasonable to all of the shareholders of these companies.

(e) Any affiliated person or depositor of or principal underwriter for a new or existing separate account and any affiliated persons of such a person, principal underwriter, or depositor shall be exempt from section 17(d) of the Act and rule 17d–1 thereunder to the extent necessary to permit such person to bear any reasonable expenses arising out of the organization of one or more new portfolio companies or the new separate account.

(f) Any affiliated persons or depositor of or principal underwriter for a new or existing separate account or any affiliated person of or principal underwriter for a new or existing portfolio company, and any affiliated person of such persons, principal underwriters, or depositor shall be exempt from section 17(a) [15 U.S.C. 80a–17(a)], and any existing portfolio company which has made an election pursuant to rule 18f–1 [17 CFR 270.18f–1] shall be permitted to revoke that election to the extent necessary to permit transactions involving the transfer of assets from the existing portfolio company to a new portfolio company; *Provided,* That:

(1) Such assets are transferred without the imposition of any fees or charges;

(2) The board of directors of the existing portfolio company, including a majority of the directors of the company who are not interested persons of such company, determines that the transfer of assets is fair and reasonable to all shareholders of the company and such determination, and the basis upon which it was made, is recorded in the minute book of the existing portfolio company;

(3) Any securities involved are valued by the existing portfolio company for purposes of the transfer in accordance with its valuation practices for determining net asset value per share; and

(4) With respect to rule 18f-1, the existing separate account requests that the existing portfolio company redeem in kind the shares of the portfolio company held by the separate account.

(g) The new portfolio company shall be exempt from section 2(a)(41)[15 U.S.C. 80a-2(a)(41)] of the Act and rules 2a-4 [17 CFR 270.2a-4] and 22c-1 [17 CFR 270.22c-1] under the Act to the extent necessary to permit it to use the same method of valuation for the purpose of pricing its shares for sale, redemption, and repurchase, as the existing portfolio company; *Provided,* That:

(1) The existing portfolio company had on September 25, 1981, an order of the Commission exempting it, for the purposes of pricing its shares for sale, redemption, and repurchase, from

(i) Section 2(a)(41) of the Act and rules 2a-4 and 22c-1 under the Act to the extent necessary to permit it to use the amortized cost valuation method or

(ii) Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit it to calculate its net asset value per share to the nearest one cent on share values of $1.00;

(2) All representations, undertakings, and conditions made or agreed to by the existing portfolio company in connection with the order are made or agreed to by the new portfolio company unless modified in accordance with this section; and

(3) Part II of the Registration Statement under the Securities Act of 1933 of the new portfolio company

(i) Indicates that the new portfolio company is relying upon paragraph (g) of this section,

(ii) Lists the Investment Company Act release numbers of any orders upon which the new portfolio company intends to rely, and

(iii) Contains a representation that the provisions of paragraph (g) have been complied with.

(h) The depositor or trustee of an existing separate account shall be exempt from section 26(b) of the Act [15 U.S.C. 80a-26(b)] to the extent necessary to permit the substitution of securities of the new portfolio company for securities of the existing portfolio company; *Provided;* That, within thirty days of such substitution:

(1) The existing separate account notifies all contractowners of the substitution of securities and any determinations of the board of directors of the new portfolio company required by paragraph (d) of this section;

(2) The existing separate account delivers a copy of the prospectus of the new portfolio company to all contractowners; and

(3) The existing separate account, concurrently with the notification referred to in paragraph (h)(1) of this section or the delivery of the prospectus of the new portfolio company referred to in paragraph (h)(2) of this section, whichever is later, offers to those contract-owners who would otherwise have surrender rights under their contracts the right, for a period of at least thirty days from the receipt of this offer, to surrender their contracts without the imposition of any withdrawal charge or contingent deferred sales load, and any surrendering contractowner receives the price next determined after the request for surrender is received by the insurance company.

(i) The existing separate account shall be exempt from section 22(d) of the Act [15 U.S.C. 80a-22(d)] to the extent necessary to permit it to comply with paragraph (h) of this section and the principal underwriter for or depositor of the existing separate account shall be exempt from section 26(a)(4)(B) of the Act [15 U.S.C. 80a-26(a)(4)(B)] to the extent necessary to permit them to rely on paragraph (h) of this section.

(j) Notwithstanding section 11 of the Act [15 U.S.C. 80a-11], the existing separate account or any principal underwriter for the existing separate account may make or cause to be made to the contractowners of the existing separate account an offer to exchange a security funded by an existing portfolio company for a security funded by a new portfolio company without the terms of that offer having first been submitted to and approved by the Commission; *Provided,* That the exchange is to be made on the basis of the relative net asset values of the securities to be exchanged without the imposition of any fees or charges.

(k) Notwithstanding section 11 of the Act, the new separate account or any principal underwriter for the new separate account may make or cause to be made an offer to the contractowners of the existing separate account to exchange their securities for securities of the new separate account without the terms of that offer having first been submitted to and approved by the Commission;

Provided, That:

(1) The exchange is to be made on the basis of the relative net asset values of the securities to be exchanged without the imposition of any fees or charges; and

(2) If the new separate account imposes a contingent deferred sales load ("sales load") on the securities to be acquired in the exchange

(i) At the time this sales load is imposed, it is calculated as if

(A) The contractowner had been a contractowner of the new separate account from the date on which he became a contractowner of the existing separate account, in the case of a sales load based on the amount of time the contractowner has been invested in the new separate account, and

(B) Amounts attributable to purchase payments made to the existing separate account had been made to the new separate account on the date on which they were made to the existing separate account, in the case of a sales load based on the amount of time purchase payments have been invested in the new separate account, and

(ii) The total sales load imposed does not exceed 9 percent of the sum of the purchase payments made to the new separate account and that portion of purchase payments made to the existing separate account attributable to the securities exchanged.

(l) Notwithstanding the foregoing, the provisions of this section will be available to a new separate account or new portfolio company, or to any affiliated person or depositor of or principal underwriter for such a new separate account, to any affiliated person of or principal underwriter for such a new portfolio company, to any affiliated person of such persons, depositor, or principal underwriters, or to any substitution of securities effected

in reliance on this section, only if such new separate account or new portfolio company is registered under the Act or such substitution is effected prior to September 21, 1983.

Paperwork Reduction Act

The information collection required by this rule has been cleared by the Office of Management and Budget and given clearance number 3235–0140.

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 6c–6 will not have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

Statutory Authority

The Commission hereby adopts rule 6c–6 pursuant to the provisions of section 6(c) [15 U.S.C. 80a–6(c)], section 11(a) [15 U.S.C. 80a–11(a)], and section 38(a) [15 U.S.C. 80a–37(a)] of the Act. Further, the Commission hereby amends rule 0–1(e) pursuant to the provisions of section 38(a) [15 U.S.C. 80a–37(a)] of the Act.

By the Commission.

George A. Fitzsimmons,

Secretary.

September 21, 1982.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that rule 6c–6 under the Investment Company Act of 1940 ("Act") will not have a significant economic impact on a substantial number of small entities. The reason for this certification is that although the rule may have a significant economic impact on a substantial number of registered insurance company separate accounts, there are no separate accounts likely to be affected by the rule that qualify as "small entities," as that term has been defined by the Commission's rules.

Dated: September 21, 1982.

John S.R. Shad,

Chairman.

[FR Doc. 82–26630 Filed 9–27–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–123 (Colorado–26)]

High-Cost Gas Produced From Tight Formations; Correction

September 22, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule concerning high-cost gas produced from tight formations, Colorado, in Docket No. RM79–76–123 (Colorado-26) that appeared in the **Federal Register** on September 3, 1982 (47 FR 38879). This action corrects an acreage description error.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8511.

The following correction replaces the acreage description in FR Doc. 82–24358, appearing on page 38879. On page 38880, § 271.703(d)(105)(i) should read as follows:

* * * * *

(d) * * *

(i) *Delineation of formation.* The Dakota-Lakota Formation is located in Boulder County, Colorado, in Township 1 North, Range 69 West, 6th P.M., Sections 25 through 36; Township 1 South, Range 69 West, 6th P.M., Sections 3 through 10, 15 through 22, and 27 through 34; Township 1 South, Range 70 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27 and 34 through 36.

* * * * *

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–26524 Filed 9–27–82; 8:45 am]

BILLING CODE 6717–01–M

18 CFR Part 282

[Doc. No. RM79–14]

Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357–8500.

Office of the Director, OPPR

Issued: September 22, 1982.

In the matter of publication of prescribed incremental pricing acquisition cost threshold of the NGPA of 1978, Docket No. RM79–14.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of October 1982 is issued by the publication of a price table for the applicable month.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	January	February	March	April	May	June	July	August	September	October	November	December
Calendar Year 1980												
Incremental Pricing Threshold	$1.702	$1.738	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.849	$1.863	$1.877
NGPA Section 102 Threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.588	2.614	2.640
NGPA Section 109 Threshold	1.786	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130% of No. 2 Fuel Oil in New York City Threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.380	7.400	7.400	7.450	7.580
Calendar Year 1981												
Incremental Pricing Threshold	$1.891	$1.908	$1.925	$1.942	$1.954	$1.967	$1.980	$1.990	$2.000	$2.010	$2.025	$2.041
NGPA Section 102 Threshold	2.667	2.698	2.729	2.761	2.787	2.813	2.840	2.863	2.886	2.909	2.940	2.971
NGPA Section 109 Threshold	1.957	1.975	1.993	2.011	2.024	2.037	2.050	2.060	2.070	2.080	2.096	2.112
130% of No. 2 Fuel Oil in New York City Threshold	7.610	7.760	8.260	9.010	9.510	9.430	9.360	9.260	8.860	8.700	8.930	8.990
Calendar Year 1982												
Incremental Pricing Threshold	$2.057	$2.071	$2.085	$2.099	$2.106	$2.113	$2.120	$2.129	$2.139	$2.149		
NGPA Section 102 Threshold	3.003	3.033	3.063	3.093	3.112	3.132	3.152	3.176	3.200	3.224		
NGPA Section 109 Threshold	2.128	2.143	2.158	2.173	2.180	2.187	2.194	2.204	2.214	2.224		
130% of No. 2 Fuel Oil in New York City Threshold	9.180	9.340	9.470	9.340	9.260	8.000	8.170	8.670	8.660	8.950		

[FR Doc. 82-26544 Filed 9-27-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74 and 81

[Docket No. 82N-0292]

FD&C Blue No. 1

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is permanently listing FD&C Blue No. 1 for use in externally applied drugs and for general use in cosmetics excluding use in the area of the eye. This action is in response to a petition filed by the Cosmetic, Toiletry, and Fragrance Association, Inc. This rule will remove FD&C Blue No. 1 from the provisional list of color additives.

DATES: Effective October 29, 1982.

Objections by October 28, 1982.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 6, 1973 (38 FR 21199), FDA announced that a petition (CAP 9C0095) for the permanent listing of FD&C Blue No. 1 as a color additive for use in externally applied drugs and cosmetics, including lipsticks, had been filed by the Cosmetic, Toiletry, and Fragrance Association, Inc. (CTFA), c/o Hazelton Laboratories, Inc., P.O. Box 30, Falls Church, VA 22046 (now 9200 Leesburg Turnpike, Vienna, VA 22180).

The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376). A subsequent notice published in the **Federal Register** of March 5, 1976 (41 FR 9584) amended the notice of filing of the petition to include the use of FD&C Blue No. 1 in all types of cosmetics that are subject to ingestion and the additional use of FD&C Blue No. 1 in cosmetics intended for use in the area of the eye (Docket No. 76C-0044).

The color additive FD&C Blue No. 1 is permanently listed for use in food in § 74.101 (21 CFR 74.101) and for use in ingested drugs in § 74.1101 (21 CFR 74.1101) (34 FR 7445; May 8, 1969). FDA permanently listed the color additive for these uses on the basis of available toxicological data from animal feeding studies. The agency found in 1969 that the data, which were derived from feeding studies that conformed to then existing toxicological testing standards, were sufficient to establish the safety of these uses involving ingestion. Because the agency felt that dermal toxicity studies were necessary before it could permanently list FD&C Blue No. 1 for general use in cosmetics and externally applied drugs (both currently listed under 21 CFR Parts 81 and 82), based upon existing toxicological data, FDA decided to continue the provisional listing of the color additive for these uses pending the completion of the dermal studies.

Toxicological Testing of FD&C Blue No. 1

In the **Federal Register** of September 23, 1976 (41 FR 41860) (Docket No. 76N-0366), FDA stated that it no longer considered existing toxicological studies to be adequate to support the continued provisional listing of several color additives including FD&C Blue No. 1. The agency explained that the studies were deficient in the following respects:

1. Many of the studies were conducted using groups of animals, i.e., control and those fed the color additive, that were too small to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested. The small number of animals used does not in and of itself cause this result, but when considered together with the other deficiencies described in this document, does do so. By and large, the studies used 25 animals in each group; today FDA recommends using at least 50 animals per group.

2. In a number of the studies, the number of animals surviving to a meaningful age was inadequate to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested.

3. In a number of the studies, an insufficient number of animals was reviewed histologically.

4. In a number of the studies, an insufficient number of tissues was examined in those animals selected for pathology.

5. In a number of the studies, lesions or tumors detected under gross examination were not examined microscopically.

The agency proposed that the continued provisional listing of several color additives, including FD&C Blue No. 1, be conditioned upon at least one petitioner's undertaking new chronic feeding studies for each of these color additives.

Regarding FD&C Blue No. 1, FDA intended that the required chronic studies would provide important evidence upon which to determine whether to list the color additive. Additionally, the agency noted that these studies would serve to replace the generally anticipated and deficient studies that supported the listing regulations then in effect for the color additive.

When the petitioner agreed to sponsor the required chronic toxicity studies for the color additive, FDA postponed the closing date for the provisional listing of FD&C Blue No. 1 to January 31, 1981, in a notice published in the **Federal Register** of February 4, 1977 (42 FR 6992).

FDA later again extended the closing date for completing the chronic toxicity studies and submitting data. In a proposal in the **Federal Register** of November 14, 1980 (45 FR 75226), the agency outlined the reasons for the need to postpone the closing dates for 23 provisionally listed color additives under test, including FD&C Blue No. 1, beyond January 31, 1981. The current closing date for the provisional listing of the color additive is October 30, 1982 (46 FR 18958; March 27, 1981).

Analysis of Data

The agency has completed its evaluation of the color additive petition for FD&C Blue No. 1, including two new chronic toxicity studies in rats and mice. These new studies represent current state-of-the-art toxicological testing. The protocols for these studies have benefitted from knowledge of deficiencies in previously conducted carcinogenesis bioassays and other chronic toxicity studies. The use of large numbers of animals of both sexes, pilot studies to determine maximum tolerated dosages, two control groups (thereby effectively doubling the number of controls), and in utero exposure in one of the two species tested (the rat) significantly increase the power of these tests for detecting dose-related effects. The studies were designed and conducted in full compliance with the good laboratory practice regulations and were subject to FDA inspection while the studies were conducted.

Based on the evaluation of the results of the two new chronic toxicity studies, the agency has determined that FD&C Blue No. 1 is not carcinogenic to Charles River albino rats or Charles River CD–1 mice after lifetime dietary exposures of 2.0 percent and 5.0 percent, respectively. Using appropriate safety factors (see 21 CFR 70.40), the agency has also estimated a maximum acceptable daily intake for humans of approximately 12.0 milligrams per kilogram of body weight per day.

The agency has also completed its evaluation of other animal studies submitted by the petitioner for the purpose of establishing the safety of FD&C Blue No. 1 for use in externally applied drugs and externally applied cosmetics. The data from these studies indicate that, with respect to dermal safety, FD&C Blue No. 1 is nonirritating when applied daily to either intact or abraded skin. Furthermore, FD&C Blue No. 1 was not found to be carcinogenic upon bi-weekly application to the skin of mice over their lifetimes.

During the safety review, the agency considered the possibility that derivatives of benzidine, a known carcinogen, occur in FD&C Blue No. 1 as byproducts of its manufacture. However, the presence of such contaminants can only be postulated. The existing analytical data on this subject and the relevant scientific literature provide no evidence indicating that benzidine or its derivatives have actually been found to be present in samples of FD&C Blue No. 1. Upon careful consideration of this matter, the agency has determined that the postulated presence of benzidine derivatives in FD&C Blue No. 1 is too speculative to require the petitioner to undertake further investigation of the presence of such material, and that the suitability of the color additive for permanent listing may appropriately be determined based upon the animal studies and other data submitted by the petitioner.

The agency has determined that the specifications for FD&C Blue No. 1 in § 74.101(b) are sufficient for the certification of the color additive for the new permanently listed uses, and they are cited by reference in the amended regulations.

The agency concludes that it is necessary to include in the listing regulation for D&C Blue No. 1 a brief description of the manufacturing process to ensure the safety of the color additives. The agency is concerned that the color additives may contain potentially toxic impurities dependent upon the manufacturing process used to produce the color additives. The agency is not able at this time to set specifications that would control the presence of these impurities. The agency has contracted the National Academy of Sciences/National Research Council (NAS/NRC) to develop appropriate specifications for color additives for use in food as part of the Food Chemicals Codex. Similarly, appropriate specifications for color additives for use in drugs and cosmetics will be developed following the general guidelines used by NAS/NRC in its evaluation of color additives used in food. The agency concludes that specifying, through a general description, the manufacturing process in the regulations for these color additives will provide an adequate assurance of safety until suitable specifications can be developed. Production of the color additive by the specified method will assure qualitatively similar batches and thus adequately assure the absence of unanticipated potentially toxic impurities.

The agency is including a description of the manufacturing procedure in § 74.2101(a) and is incorporating it by reference in § 74.1101(a)(1) for externally applied drugs. In the near future, FDA will propose to amend the identity requirements for FD&C Blue No. 1 in § 74.101(a), and by reference, for ingested drugs, to include a description of the manufacturing procedures.

Conclusions

The agency concludes that FD&C Blue No. 1 is safe under the conditions of use set forth below for general use in cosmetics and for use in externally applied drugs, and that certification is necessary for the protection of the public health. The final chronic toxicity study reports, interim reports, reports on dermal testing, and the agency's toxicology evaluations of these studies supporting the safety of the color additive for uses involving ingestion and dermal application are on file at the Dockets Management Branch (address above). They may be reviewed there between 9 a.m. and 4 p.m., Monday through Friday.

FD&C Blue No. 1 Lakes

To simplify the regulations pertaining to the FD&C Blue No. 1 Lake, the agency is removing the specific entry for the FD&C Blue No. 1 Lake from the table in § 81.1(a) (21 CFR 81.1(a)) because it is redundant. The FD&C Blue No. 1 lake previously has been specifically cited as provisionally listed for use in foods in the first entry in the table in § 81.1(a). This specific entry was added to the table when FDA permanently listed the straight color additive for food and ingested drug use (34 FR 11542; July 12, 1969). Before that time, FDA provisionally listed the lakes of

regulated FD&C colors for use in food, drugs, and cosmetics under the entry "Lakes (FD&C)" in the same table in § 81.1(a) (formerly § 8.501(a)). By including the separate entry for the FD&C Blue No. 1 lake in the table, FDA intended to emphasize that while it had permanently listed the straight color additive for food use, the lake was still provisionally listed for that use. Upon the deletion of the separate entry for the FD&C Blue No. 1 lake, the lake use of the color additive will remain provisionally listed under the general entry for FD&C lakes in § 81.1(a). The agency has announced its intention to establish permanent regulations for lakes of color additives and is currently assembling the information that is needed to achieve that end (44 FR 36411; June 22, 1979).

Eye Area Use

FDA notified the petitioner by letters (May 14, 1976, August 15, 1977, and August 4, 1978) of the need for data to support the use of FD&C Blue No. 1 in cosmetics intended for use in the area of the eye. In a fourth letter, dated October 24, 1978, FDA advised the petitioner to consider withdrawing that portion of its petition that sought approval of the use of FD&C Blue No. 1 in cosmetics intended for use in the area of the eye because the required data from eye area studies apparently were not available.

The petitioner has not submitted the required data for eye area use. Therefore, FDA now considers that portion of the petition that was amended by the filing on March 5, 1976 (Docket No. 76C–0044) to include the permanent listing of FD&C Blue No. 1 for eye area use to be withdrawn without prejudice in accordance with the provisions of § 71.4 (21 CFR 71.4). Section 71.4 requires that such requested information be submitted within 180 days after filing of the petition or the petition will be considered withdrawn without prejudice. Use of FD&C Blue No. 1 in the area of the eye has never been covered by provisional listing. Future consideration by FDA of the permanent listing of FD&C Blue No. 1 for eye area use will require the submission of a new color additive petition for that use. The agency's listing of a color additive for general use in cosmetics and for use in externally applied drugs does not encompass eye area use.

The agency has determined pursuant to 21 CFR 25.24(b)(12) and (d)(5) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 74

Color additives, Color additives subject to certification, Cosmetics, Drugs.

21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706(b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376(b), (c), and (d))) and the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 74 and 81 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. Part 74 is amended:

a. By revising § 74.1101, to read as follows:

§ 74.1101 FD&C Blue No. 1

(a) *Identity.* (1) For ingested drugs, the color additive FD&C Blue No. 1 shall conform in identity to the requirements of § 74.101(a)(1).

(2) For externally applied drugs, the color additive FD&C Blue No. 1 shall conform in identity to the requirements of § 74.2101(a).

(3) Color additive mixtures for drug use made with FD&C Blue No. 1 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring drugs.

(b) *Specifications.* The color additive FD&C Blue No. 1 for use in coloring drugs generally shall conform in specifications to the requirements of § 74.101(b).

(c) *Uses and restrictions.* The color additive FD&C Blue No. 1 may be safely used for coloring drugs generally in amounts consistent with current good manufacturing practice.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of FD&C Blue No. 1 shall be certified in accordance with regulations in Part 80 of this chapter.

b. By adding new § 74.2101, to read as follows:

§ 74.2101 FD&C Blue No. 1.

(a) *Identity.* The color additive FD&C Blue No. 1 is principally the disodium salt of ethyl[4-[*p*-[ethyl(*m*-sulfobenzyl)amino]-α-(*o*-sulfophenyl)benzylidene]-2,5-cyclohexadien-1-ylidene](*m*-sulfobenzyl)ammonium hydroxide inner salt with smaller amounts of the isomeric disodium salts of ethyl[4-[*p*-[ethyl(*p*-sulfobenzyl)amino]-α-(*o*-sulfophenyl)benzylidene]-2,5-cyclohexadien-1-ylidene](*p*-sulfobenzyl)ammonium hydroxide inner salt and ethyl[4-[*p*-[ethyl(*o*-sulfobenzyl)amino]-α-(*o*-sulfophenyl)benzylidene]-2,5-cyclohexadien-1-ylidene](*o*-sulfobenzyl)ammonium hydroxide inner salt. Additionally, FD&C Blue No. 1 is manufactured by the acid catalyzed condensation of one molecule of sodium 2-formylbenzene-sulfonate with two molecules from a mixture consisting principally of 3-[(ethyl-phenylamino)methyl]benzenesulfonic acid, and smaller amounts of 4-[(ethylphenylamino)methyl] benzenesulfonic acid and 2-[(ethyl-phenylamino)methyl]benzenesulfonic acid to form the leuco base. The leuco base is then oxidized with lead dioxide and acid, or with dichromate and acid to form the dye. The intermediate sodium 2-formylbenzenesulfonate is prepared from 2-chlorobenzaldehyde and sodium sulfite.

(b) *Specifications.* The color additive FD&C Blue No. 1 shall conform in specifications to the requirements of § 74.101(b).

(c) *Uses and restrictions.* FD&C Blue No. 1 may be safely used for coloring cosmetics generally in amounts consistent with current good manufacturing practice.

(d) *Labeling.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of FD&C Blue No. 1 shall be certified in accordance with regulations in Part 80 of this chapter.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

2. Part 81 is amended:

§ 81.1 [Amended]

a. In § 81.1 *Provisional lists of color additives,* by removing the entry for "FD&C Blue No. 1" from the table in paragraph (a).

§ 81.27 [Amended]

b. In § 81.27 *Conditions of provisional listing*, by removing the entry for "FD&C Blue No. 1" from the table in paragraph (d).

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 28, 1982 file with the Dockets Management Branch (address above) written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provision of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objections shall state the issues for the hearing and shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Three copies of all documents shall be filed and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective October 29, 1982 except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the **Federal Register.**

(Sec. 706(b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376(b), (c), and (d); sec. 203, Pub. L. 86–618, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: September 23, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-26680 Filed 9-27-82; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Parts 74, 81, and 82

[Docket No. 82N-0307]

D&C Red No. 27 and D&C Red No. 28

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is permanently listing D&C Red No. 27 and D&C Red No. 28 for general use in drugs and cosmetics. This action is in response to a petition filed by the Cosmetic, Toiletry and Fragrance Association. This rule will remove D&C Red No. 27 and D&C Red No. 28 from the provisional list of color additives for general use in drugs and cosmetics.

DATES: Effective October 29, 1982; objections by October 28, 1982.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 6, 1973 (38 FR 21199), FDA announced that a petition (CAP 6C0044) for the permanent listing of D&C Red No. 27 and D&C Red No. 28 as color additives for general use in drugs and cosmetics had been filed by the Toilet Goods Association, Inc. (now the Cosmetic, Toiletry and Fragrance Association (CTFA)), c/o Hazleton Laboratories, Inc., P.O. Box 30, Falls Church, VA 22046 (now 9200 Leesburg Turnpike, Vienna, VA 22180).

The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376). A later notice (41 FR 9584; March 5, 1976) amended the notice of filing of the petition to include the use of D&C Red No. 27 in cosmetics intended for use in the area of the eye (Docket No. 76C–0044).

Toxicological Testing of D&C Red No. 27 and D&C Red No. 28

The provisional regulations published in the **Federal Register** of February 4, 1977 (42 FR 6992).required new chronic toxicity studies for D&C Red No. 27 and D&C Red No. 28 as a condition of their continued provisional listing for ingested uses. FDA placed these requirements on 31 color additives because the toxicity studies the petitioners had submitted to support the safe use of these color additives were deficient in several respects. FDA described these deficiencies in the **Federal Register** of September 23, 1976 (41 FR 41863) (Docket No. 76N–0366):

1. Many of the studies were conducted using groups of animals, i.e., control and those fed the color additive, that are too small to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color. The small number of animals used does not, in and of itself, cause this result, but when considered together with the other deficiencies in this listing, does do so. By and large, the studies used 25 animals in each group; today FDA recommends using at least 50 animals per group.

2. In a number of the studies, the number of animals surviving to a meaningful age was inadequate to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested.

3. In a number of the studies, an insufficient number of animals was reviewed histologically.

4. In a number of the studies, an insufficient number of tissues was examined in those animals selected for pathology.

5. In a number of the studies, lesions or tumors detected under gross examination were not examined microscopically.

The closing date for the provisional listing of the color additives was postponed until January 31, 1981, for the completion of required chronic toxicity studies. FDA later extended the closing date for completing the chronic toxicity studies and submitting data. In a proposal in the **Federal Register** of November 14, 1980 (45 FR 75226), the agency outlined the reasons for the need to postpone the closing dates for 23 provisionally listed color additives under test, including D&C Red No. 27 and D&C Red No. 28, beyond January 31, 1981. In the **Federal Register** of March 27, 1981 (46 FR 18958), FDA issued the final rule establishing new closing dates for D&C Red No. 27 and D&C Red No. 28 and the other color additives. Therefore, the current closing date for the provisional listing of D&C Red No. 27 and D&C Red No. 28 is October 30, 1982. The provisional listings in § 81.1(b) (21 CFR 81.1(b)) of D&C Red No. 27 and D&C Red No. 28 for use in drugs and cosmetics will be removed when this order becomes effective on October 29, 1982, unless this order is stayed by the timely filing of objections.

Analysis of Data

The agency has completed its evaluation of the color additive petition for D&C Red No. 27 and D&C Red No. 28, including two new chronic toxicity studies in rats and mice. These new long-term chronic studies represent current state-of-the-art toxicological testing. The protocols for these studies have benefited from knowledge of deficiencies in previously conducted carcinogenesis bioassays and other chronic toxicity protocols. The use of large numbers of animals of both sexes, pilot studies to determine maximum tolerated dosages, two control groups (thereby effectively doubling the number of controls), and in utero exposure in one of the two species tested

significantly increases the power of these tests to detect dose-related effects. The studies were designed and conducted in full compliance with the current good laboratory practice regulations and were subject to inspections by FDA officials during their course.

The test material in the recent chronic rat and mouse studies was D&C Red No. 27. Because D&C Red No. 28 is the disodium salt of D&C Red No. 27, the agency considers the two color additives to be toxicologically equivalent. Thus, any safety conclusion drawn from studies of D&C Red No. 27 applies equally to D&C Red No. 28.

Based on the evaluation of the results of the two new chronic toxicity studies, the agency has determined that D&C Red No. 27 and D&C Red No. 28 are not carcinogenic in Charles River Sprague-Dawley CD rats or CD–1 mice after lifetime dietary exposure of 2.0 percent and 1.0 percent, respectively. Using appropriate safety factors (see 21 CFR 70.40), the agency has also estimated a maximum acceptable daily intake for humans—1.25 milligrams per kilogram of body weight per day.

Conclusion on Safety

The agency concludes that D&C Red No. 27 and D&C Red No. 28 are safe under conditions of use set forth below for general use in drugs and cosmetics, and that certification is necessary for the protection of the public health. The final toxicity study reports, interim reports, and the agency's toxicology evaluations of these studies are on file at the Dockets Management Branch (address above) and may be reviewed there between 9 a.m. and 4 p.m., Monday through Friday.

FDA notified the petitioners by letters dated May 14, 1976, August 15, 1977, August 4, 1978, and October 24, 1978, of the need for data to support the use of D&C Red No. 27 in cosmetics intended for use in the area of the eye. In the fourth letter, dated October 24, 1978, FDA advised the petitioner to consider withdrawing that portion of its petition that sought approval of use of D&C Red No. 27 in cosmetics intended for use in the area of the eye because the required data for eye-area studies apparently were not readily available.

The petitioner has not submitted the required data for eye-area use. Therefore, FDA now considers that portion of the petition that was amended by the filing on March 5, 1976 (Docket No. 76C–0044) to include the permanent listing of D&C Red No. 27 for eye-area use to be withdrawn without prejudice in accordance with the provisions of § 71.4 (21 CFR 71.4). Section 71.4 requires that such requested information be submitted within 180 days after filing of the petition, or the petition will be considered withdrawn without prejudice. Use of D&C Red No. 27 in the area of the eye has never been covered by provisional listing. Future consideration by FDA of the permanent listing of D&C Red No. 27 for eye-area use will require the submission of a new color additive petition for that use. The agency's listing of a color additive for general use in drugs and cosmetics does not encompass eye-area use.

The agency is establishing new chemical specifications that identify the color additives more precisely than those specifications currently in Part 82. Also, the chemical names for the two color additives in the new listings under 21 CFR Part 74 are different from the names currently listed under 21 CFR Part 82 and from the Chemical Abstracts designations. The agency has decided to follow the nomenclature commonly used in the chemical literature where these color additives are referred to as fluorescein derivatives.

The agency concludes that it is necessary to include in the listing regulations for D&C Red No. 27 and D&C Red No. 28 a brief description of the manufacturing process to ensure the safety of the color additives. The agency is concerned that the color additives may contain potentially toxic impurities dependent upon the manufacturing process used to produce the color additive. The agency is not able at this time to set specifications that would control the presence of these impurities. The agency has contracted the National Academy of Sciences-National Research Council (NAS/NRC) to develop appropriate specifications for color additives for use in food as part of the Food Chemicals Codex. Similarly, appropriate specifications for color additives for use in drugs and cosmetics will be developed following the general guidelines used by NAS/NRC in its evaluation of color additives used in food. The agency concludes that specifying, through a general description, the manufacturing process in the regulations for these color additives will provide an adequate assurance of safety until suitable specifications can be developed. Production of the color additive by the specified method will assure qualitatively similar batches and thus adequately assure the absence of unanticipated potentially toxic impurities.

The agency has determined under 21 CFR 25.24 (b)(12) and (d)(5) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 74

Color additives, Color additives subject to certification, Cosmetics, Drugs.

21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Color additives lakes, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec 706 (d), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d))) and the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 74, 81, and 82 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. Part 74 is amended:

a. By adding new § 74.1327 to Subpart B, to read as follows:

§ 74.1327 D&C Red No. 27.

(a) *Identity.* (1) The color additive D&C Red No. 27 is principally 2',4',5',7'-tetrabromo-4,5,6,7-tetrachlorofluorescein (CAS Reg. No. 13473-26-2). The color additive is manufactured by brominating 4,5,6,7-tetrachlorofluorescein with elemental bromine. The 4,5,6,7-tetrachlorofluorescein is manufactured by the acid condensation of resorcinol and tetrachlorophthalic acid or its anhydride. The 4,5,6,7-tetrachlorofluorescein is isolated and partially purified prior to bromination.

(2) Color additive mixtures for drug use made with D&C Red No. 27 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring drugs.

(b) *Specifications.* D&C Red No. 27 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by current good manufacturing practice:

Sum of volatile matter (at 135° C) and halides and sulfates (calculated as sodium salts), not more than 10 percent.
Insoluble matter (alkaline solution), not more than 0.5 percent.
Tetrachlorophthalic acid, not more than 1.2 percent.
Brominated resorcinol, not more than 0.4 percent.
2,3,4,5-Tetrachloro-6-(3,5-dibromo-2,4-dihydroxybenzoyl) benzoic acid, not more than 0.7 percent.
2',4',5',7'-Tetrabromo-4,5,6,7-tetrachlorofluorescein, ethyl ester, not more than 2 percent.
Lower halogenated subsidiary colors, not more than 4 percent.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total color, not less than 90 percent.

(c) *Uses and restrictions.* R&C Red No. 27 may be safely used for coloring drugs generally in amounts consistent with current good manufacturing practice.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of D&C Red No. 27 shall be certified in accordance with regulations in Part 80 of this chapter.

b. By adding new § 74.1328 to Subpart B, to read as follows:

§ 74.1328 D&C Red No. 28.

(a) *Identity.* (1) The color additive D&C Red No. 28 is principally the disodium salt of 2',4',5',7'-tetrabromo-4,5,6,7-tetrachlorofluorescein (CAS Reg. No. 18472-87-2) formed by alkaline hydrolysis of the parent tetrabromotetrachlorofluorescein.

(2) Color additive mixtures for drug use made with D&C Red No. 28 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring drugs.

(b) *Specifications.* D&C Red No. 28 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by current good manufacturing practice:

Sum of volatile matter (at 135° C) and halides and sulfates (calculated as sodium salts), not more than 15 percent.
Insoluble matter (alkaline solution), not more than 0.5 percent.
Tetrachlorophthalic acid, not more than 1.2 percent.
Brominated resorcinol, not more than 0.4 percent.
2,3,4,5-Tetrachloro-6-(3,5-dibromo-2,4-dihydroxybenzoyl)benzoic acid, not more than 0.7 percent.
2',4',5',7'-Tetrabromo-4,5,6,7-tetrachlorofluorescein, ethyl ester, not more than 2 percent.
Lower halogenated subsidiary colors, not more than 4 percent.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total color, not less than 85 percent.

(c) *Uses and restrictions.* D&C Red No. 28 may be safely used for coloring drugs generally in amounts consistent with current good manufacturing practice.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of D&C Red No. 28 shall be certified in accordance with regulations in Part 80 of this chapter.

c. By adding new § 74.2327 to Subpart C, to read as follows:

§ 74.2327 D&C Red No. 27.

(a) *Identity and specifications.* The color additive D&C Red No. 27 shall conform in identity and specifications to the requirements of § 74.1327 (a)(1) and (b).

(b) *Uses and restrictions.* D&C Red No. 27 may be safely used for coloring cosmetics generally in amounts consistent with current good manufacturing practice.

(c) *Labeling requirements.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(d) *Certification.* All batches of D&C Red No. 27 shall be certified in accordance with regulations in Part 80 of this chapter.

d. By adding new § 74.2328 to Subpart C, to read as follows:

§ 74.2328 D&C Red No. 28.

(a) *Identity and specifications.* The color additive D&C Red No. 28 shall conform in identity and specifications to the requirements of § 74.1328 (a)(1) and (b).

(b) *Uses and restrictions.* D&C Red No. 28 may be safely used for coloring cosmetics generally in amounts consistent with current good manufacturing practice.

(c) *Labeling requirements.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(d) *Certification.* All batches of D&C Red No. 28 shall be certified in accordance with regulations in Part 80 of this chapter.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

2. Part 81 is amended:

§ 81.1 [Amended]

a. In § 81.1 *Provisional lists of color additives* in paragraph (b) by removing the entries for "D&C Red No. 27" and "D&C Red No. 28".

§ 81.27 [Amended]

b. In § 81.27 *Conditions of provisional listing* in paragraph (d) by removing the entries for "D&C Red No. 27" and "D&C Red No. 28".

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

3. Part 82 is amended:

a. By revising § 82.1327, to read as follows:

§ 82.1327 D&C Red No. 27.

The color additive D&C Red No. 27 shall conform in identity and specifications to the requirements of § 74.1327 (a)(1) and (b) of this chapter.

b. By revising § 82.1328, to read as follows:

§ 82.1328 D&C Red No. 28.

The color additive D&C Red No. 28 shall conform in identity and specifications to the requirements of § 74.1328 (a)(1) and (b) of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 28, 1982 file with the Dockets Management Branch (address above) written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objections shall state the issues for the hearing and shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event

that a hearing is held. Three copies of all documents shall be filed and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective October 29, 1982 except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the **Federal Register.**

(Sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d)); sec. 203, Pub. L. 86–618, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: September 23, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-26679 Filed 9-27-82; 8:45 am]

BILLING CODE 4160-01-M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules; Amendment, Clarification, and Restatement; Correction

AGENCY: National Labor Relations Board.

ACTION: Final rule; correction.

SUMMARY: FR Document 82–25270, filed September 14, 1982, and published at 47 FR 40770–40773, September 15, 1982, is hereby corrected by restating rule section 102.69(c) as set forth in that document to reflect changes to that section previously made by FR Document 81–26823, filed September 14, 1981, and published at 46 FR 45922–45924, September 15, 1981, but inadvertently not fully incorporated into the newly published restatement of that rule section. The corrections made are: (1) Section 102.69(c)(1) is corrected to include the word "timely" on the first line of the section, after "If" and before "objections"; (2) the section is corrected to include § 102.69(c)(4), which was omitted from the document; and (3) the reference in the last sentence of the statement of Supplementary Information referring to "three numbered paragraphs" is corrected to read "four numbered paragraphs."

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue, NW., Room 701, Washington, D.C. 20570, Telephone: (202) 254–9430.

Correction of Publication

In FR Document 82–25270, appearing in the Wednesday, September 15, 1982, issue of the **Federal Register,** 47 FR 40770, *et seq.,* make the following changes:

1. Delete all references to § 102.69(c)' having been separated into three parts.

2. § Paragraph (c)(1) § 102.69 should read as follows:

§ 102.69 [Corrected]

* * * * *

(c)(1) If timely objections are filed to the conduct of the election or to conduct affecting the results of the election, or if the challenged ballots are sufficient in number to affect the results of the election, the regional director shall, consistent with the provisions of section 102.69(d), initiate an investigation, as required, of such objections or challenges.

3. Immediately after paragraph (c)(3) of section 102.69 insert the following paragraph (c)(4):

* * * * *

(c) * * *

(4) If the regional director issues a report on objections and challenges, the parties shall have the rights set forth in paragraph (c)(2) of this section and in § 102.69(f); if the regional director issues a decision, the parties shall have the rights set forth in § 102.67 to the extent consistent herewith, including the right to submit documents supporting the request for review or opposition thereto as permitted by § 102.69(g)(3).

Dated, Washington, D.C., September 23, 1982.

By Direction of the Board.

National Labor Relations Board.

John C. Truesdale,

Executive Secretary.

[FR Doc. 82-26857 Filed 9-27-82; 8:45 am]

BILLING CODE 7545-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 221 and 231

Oil and Gas Operating Regulations; Operating Regulations for Exploration, Development, and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the existing operating regulations for oil and gas and for exploration, development, and production of solid minerals other than coal, to facilitate operations for tar sands development under the Combined Hydrocarbon Leasing Act of 1981. The objective is to provide procedures for a wide variety of operational methods with the least regulatory burden.

EFFECTIVE DATE: This regulation is effective October 28, 1982.

ADDRESS: Acting Associate Director, Onshore Minerals Operations, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 656, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT:

Mr. Gerald R. Daniels, (703) 860–7535, (FTS) 928–7535,

Mr. Tom Leshendok, (703) 860–7506, (FTS) 928–7506,

or

Mr. Stephen H. Spector, (703) 860–7969, (FTS) 928–7969.

SUPPLEMENTARY INFORMATION: The proposed rulemaking on Oil and Gas Operating Regulations and Operating Regulations for Exploration, Development, and Production for solid minerals other than coal was published in the **Federal Register** on May 12, 1982 (47 FR 20324), with a 30-day comment period provided. This final rulemaking differs from the proposed rulemaking only in that the ability to prescribe orders and notices relating to tar sands development has been specifically provided for.

Six written comments were received on the proposed rulemaking. These six comments were received from the following sources: four from industry, one from an industry association, and one from a Federal Agency.

The proposed rulemaking included a request for comments on the decision not to promulgate regulations governing tar sands operations as a separate part but rather include tar sands operations under existing 30 CFR Parts 221 and 231. Two commenters were in favor of the decision and two opposed it. Both commenters in opposition stated that, because tar sands development is in an embryonic and economically unproven state, additional support would be derived from separate regulations, which would provide a focal point for tar sands concerns. After due consideration of these expressions of interest, we have decided to implement our original approach for the following reasons: (1) Parts 221 and 231 contain the necessary flexibility to focus on tar sands concerns without adding to the volume of regulations and increasing the overall regulatory burden; (2) all oil and gas leases issued after the passage of the Combined Hydrocarbon Leasing Act of 1981 grant the right to extract tar

sands; and (3) the slight changes introduced in our final rulemaking facilitate the establishment of specific guidelines for tar sands operations, if additional general guidance proves necessary.

Two of the commenters focused on the method of setting royalty rates for tar sands products, stating that the provisions of existing Parts 221 and 231 did not seem adequate to allow due consideration of the factors affecting tar sands development. We feel the existing regulations will allow the Minerals Management Service (MMS) enough flexibility to address the loyalty concerns. The MMS expects to issue necessary guidelines in the near future.

One commenter suggested that because tar sands development may have different environmental impacts than oil and gas development, the MMS should inform potential combined hydrocarbon leaseholders that information beyond that typically requested to evaluate oil and gas operations may be needed. Our reference to an ability to publish orders and notices relating to tar sands development provides a vehicle by which we may request any desired information that is deemed necessary.

The principal authors of this final rulemaking are Mr. Gerald Daniels, Acting Chief, Oil, Gas, and Geothermal Division; Mr. James W. Hager, Office of the Deputy Minerals Manager, Oil Shale, Grand Junction, Colorado; and Mr. Stephen H. Spector, Branch of Technical Services, Oil, Gas, and Geothermal Division, assisted by the Office of the Solicitor.

Executive Order 12291

The Department has determined that this rule is not a major action and does not require the preparation of a regulatory analysis under Executive Order 12291 because the rule will have a positive effect on the development of tar sands and the use of existing procedures will be far less costly to industry than the development of a separate tar sands rule.

Regulatory Flexibility Act

The Department has also certified that this rulemaking will not have a significant economic impact on a substantial number of small entities; thus a small entity flexibility analysis under the Regulatory Flexibility Act (P.L. 96–354) is not required. Although small business entities are not expected to be financially able to participate directly in lease operations, they are expected to participate through contracts for support work to operators and lessees who will be primarily responsible for compliance with the provisions.

National Environmental Policy Act of 1969

It is hereby determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. 4332(2)(C)) is required.

Paperwork Reduction Act of 1980

There are no changes in the information collection requirements of the parts of Title 30 amended. All reporting locations, forms, and content are unchanged.

List of Subjects

30 CFR Part 221

Government contracts, Mineral royalties, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 231

Environmental protection, Government contracts, Mineral royalties, Public lands-mineral resources, Mines, Reporting and recordkeeping requirements.

Under the authority of the Act of February 25, 1920 (30 U.S.C. 189), and the Act of November 16, 1981, Pub. L. 97–78 (95 Stat. 1070), Parts 221 and 231, Chapter II, Title 30 of the Code of Federal Regulations are amended as set forth below.

Dated: September 3, 1982.

Garrey E. Carruthers,

Acting Secretary.

PART 221—OIL AND GAS OPERATING REGULATIONS

1. Part 221 is amended by amending the Authority citation to include the following additional citation:

Authority: * * *; and the Combined Hydrocarbon Leasing Act of November 16, 1981 (Pub. L. 97–78, 95 Stat. 1070).

2. Section 221.2 is amended by revising paragraph (p) to read as follows:

§ 221.2 Definitions.

* * * * *

(p) *Oil.* Any nongaseous hydrocarbon substance other than those substances leasable as coal, oil shale, or gilsonite (including all vein-type solid hydrocarbons). For royalty rate consideration in special tar sand areas, any hydrocarbon substance with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise is termed tar sand. Hydrocarbon extraction from tar sand is also governed by the regulation at 30 CFR Part 231 and applicable orders and notices.

PART 231—OPERATING REGULATIONS FOR EXPLORATION, DEVELOPMENT, AND PRODUCTION

3. Part 231 is amended by amending the Authority citation to include the following additional citation:

* * * * *

Authority: * * *; and the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78, 95 Stat. 1070).

4. Section 231.1 is amended by revising paragraph (a) and the cross reference at the end of the section to read as follows:

§ 231.1 Scope and purpose.

(a) The regulations in this part shall govern operations for the discovery, testing, development, mining, and processing of all minerals under leases or permits issued for Federal lands pursuant to the regulations in 43 CFR Group 3500 or Part 3140 and of all minerals (except coal, oil, and gas) on tribal and allotted Indian lands leased pursuant to the regulations in 25 CFR Parts 171, 172, 173, 174, and 176. For operations involving the extraction of hydrocarbon from tar sand or oil shale by in situ methods utilizing boreholes or wells the regulations in 30 CFR Part 221 and applicable orders and notices also apply.

* * * * *

Cross Reference: See Part 211 of this chapter for regulations governing operations under coal permits and leases. See Part 221 of this chapter for regulations governing operations under oil and gas, or combined hydrocarbon leases and operations for the extraction of hydrocarbon from tar sand and oil shale by in situ or other methods utilizing boreholes or wells.

[FR Doc. 82–26542 Filed 9–27–82; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8–R, Amdt. No. 17]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Durable Medical Equipment

AGENCY: Office of the Secretary, DoD.

ACTION: Amendment of final rule.

SUMMARY: This final rule amends DoD Regulation 6010.8–R (32 CFR 199) to remove a restriction under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Basic Program that durable medical equipment may only be rented or obtained under a lease/purchase arrangement, regardless of the cost advantages of outright purchase if lease/purchase is not available or if prolonged rental will be necessary. Amendment to allow outright purchase in cases of prolonged need will permit cost savings for the Government and for beneficiaries, and is consistent with major government and private health benefit plans.

EFFECTIVE DATE: This amendment is effective September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Charles E. Guidice, Policy Branch, OCHAMPUS, telephone (303) 361–8608.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–7834, appearing in the **Federal Register** on April 4, 1977, (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8–R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title.

In FR Doc. 82–11596 appearing in the **Federal Register** on April 28, 1982 (47 FR 18149), the Office of the Secretary of Defense published a proposed amendment to rule regarding a revision to the language of the CHAMPUS Regulation to allow outright purchase of durable medical equipment when lease/purchase is not available or prolonged rental is necessary. Public comments were to have been submitted by June 28, 1982.

Other than comments supporting the proposed rulemaking, only three comments were received that proposed changes of the language of the proposed rule.

The first comment recommended that the effective date not be made retroactive to October 1, 1980. This recommendation was accepted. We felt making the recommendation retroactive would cause numerous problems with attempting to backfit eligibility determination. This final rule establishes the effective date as the date of publication.

The second comment suggested deletion of the criterion concerning the usefulness of durable medical equipment to another person in the absence of an illness or injury. This recommendation was accepted and the provision has been deleted.

The third comment suggested that the factors to be considered in the reimbursement process include a statement on the time value of money. This recommendation was accepted and has been added to § 199.10, paragraph (d)(3)(ii)(*b*).

In addition, we have made minor technical changes in § 199.10, paragraph (d), to simplify language for clarity. Section 199.10 paragraph (d)(3)(ii) of this part states that CHAMPUS benefits are payable under the Basic Program for the rental or lease/purchase of durable medical equipment, but does not provide for outright purchase of such equipment even if such purchase would be cost-advantageous to the Government.

The Program has encountered a number of situations where there has been or is expected to be a prolonged period of medical treatment requiring the use of the durable medical equipment, where a lease/purchase arrangement is not possible, or where the equipment is not available for rent.

Following a review of the applicable statute, the Department has concluded that there is no statutory bar to CHAMPUS sharing in the cost of purchase of durable medical equipment when such purchase is more cost-advantageous to the Government or where the equipment cannot be rented.

The amendment does not change the current definition or coverage criteria for durable medical equipment. Instead, it provides an additional alternative for acquisition which offers potential cost savings both to the Government and to beneficiaries.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

Accordingly, 32 CFR, Chapter I, Part 199, is amended to read as follows:

PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

1. Section 199.10 is amended by revising paragraph (d)(3)(ii) to read as follows:

§ 199.10 Basic program benefits.

* * * * *

(d) * * *

(3) * * *

(ii) *Durable Medical Equipment—(a) Coverage Criteria.* Durable medical equipment (DME) for the specific use of the beneficiary is covered, provided such equipment meets the following criteria:

(*1*) It must be medically necessary for the treatment of an illness or injury.

(*2*) It must improve the function of a malformed, diseased or injured body part or retard further deterioration of the patient's physical condition.

(*3*) It must be primarily and customarily used to serve a medical purpose, rather than primarily for transportation, comfort or convenience.

Note.—A wheelchair (or Program-approved alternative) is not considered transportation in the sense of paragraph (d)(3)(ii)(*a*)(*4*) of this section. It is qualified as durable medical equipment under paragraph (d)(3)(ii)(*a*)(*2*) of this section above, because by providing basic mobility, it retards further deterioration of the patient's physical condition. Mobility beyond that basic mobility provided by a wheelchair (or a Program-approved alternative) is considered to be primarily transportation.

(*4*) It must withstand repeated use, and will be provided on a one-at-a-time basis only, based on the anticipated lifetime of the specific item of equipment.

(*5*) It must be other than spectacles, eyeglasses, contact lenses or other optical devices and other than hearing aids or other communciation devices.

(*6*) It cannot be beyond the medically appropriate level of performance and quality required under the circumstances (i.e., non-luxury, non-deluxe). However, this criterion is not intended to preclude the special fitting of equipment to accommodate a particular disability, such as fitting a wheelchair for a one-armed individual.

(*7*) It cannot be for a patient in a facility which can provide or ordinarily provides such equipment.

(*8*) It is not available for loan from any local Uniformed Service Medical Treatment Facility.

(*9*) The reasonable charge for the item must be more than $100.

(*b*) *Payment Alternatives.* Generally, CHAMPUS reimbursement for durable medical equipment will be limited to the most cost-advantageous methods to the Government. These methods can include rental, lease/purchase and outright purchase. Factors to be considered in the reimbursement process include the reasonable charge for purchase of the equipment, the reasonable monthly rental charge for the equipment, the estimated duration of medical necessity for the use of the equipment, and the availability of rental equipment. In addition, the cost analysis must include a provision for the time value of money at the rate established quarterly and published in United States Treasury Federal Regulations Manual bulletins and the **Federal Register.** Regardless of the method of reimbursement to be used, all equipment must first meet the coverage criteria in paragraph (d)(3)(ii)(*a*) of this section above.

* * * * *

(10 U.S.C. 1079, 1086; 5 U.S.C. 301)

Dated: September 22, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 82-26496 Filed 9-27-82; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2203-5]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve changes to the Arizona Department of Health Services (ADHS) rules and regulations for air pollution control submitted by the Director of the ADHS as revisions to the Arizona State Implementation Plan (SIP). These revisions are administrative and retain the previous emission control requirements. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved.

DATE: This action is effective November 29, 1982.

ADDRESSES: Copies of the revisions are available for public inspection during normal business hours at the EPA Region 9 office and 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. 20460

Arizona Department of Health Services, 1740 West Adams Street, Phoenix, AZ 85007

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7641.

SUPPLEMENTARY INFORMATION: The ADHS submitted as SIP revisions the following rules on June 3, 1982:

R9-3-101 Definitions
R9-3-219 Air pollution emergency episodes
R9-3-502 Unclassifed sources
R9-3-505 Standards of performance for existing cement plants
R9-3-508 Standards of performance for existing asphalt concrete plants
R9-3-511 Standards of performance for existing secondary lead smelters
R9-3-513 Standards of performance for existing iron and steel plants
R9-3-516 Standards of performance for existing coal preparation plants
R9-3-517 Standards of performance for steel plants: existing electric arc furnaces (EAF)
R9-3-518 Standards of performance for existing kraft pulp mills
R9-3-520 Standards of performance for existing lime manufacturing plants
R9-3-521 Standards of performance for existing nonferrous metals industry sources
R9-3-522 Standards of performance for existing gravel or crushed stone processing plants
Appendix 8 Procedures for utilizing the sulfur balance method for determining sulfur emissions

As described below, these rules revisions are administrative and do not significantly impact current emission control requirements.

In rule R9-3-101 a number of definitions have been revised to provide clarification and improve the enforceability of the SIP. Revisions in rule R9-3-219 specify ozone rather than photochemical oxidant as the criteria pollutant. The wording of rules R9-3-502 to R9-3-522 has been adjusted to reflect the change in the names and boundaries of the Arizona Air Quality Control Regions. And, in Appendix 8 the citation for the test method has been updated.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, EPA is required to approve or disapprove these regulations as SIP revisions. All rules submitted have been evaluated and found to be in accordance with EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the EPA Library in Washington, D.C., and the Region 9 office.

It is the purpose of this notice to approve all the rule revisions listed above and to incorporate them into the Arizona SIP. This is being done without prior proposal because the revisions are noncontroversial, have limited impact, and no comments are anticipated. 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, the approval 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 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.) The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

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

(Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601(a)))

List of Subjects in 40 CFR Part 52

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

Dated: September 21, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart D of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

1. Section 52.120, paragraph (c) is amended by adding subparagraph (54)(i)(C) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(54) * * *

(i) * * *

(C) New or amended rules R9-3-101 (Nos. 4 to 6, 9 to 16, 22 to 28, 30 to 33, 36, 38 to 55, 57 to 60, 64 to 67, 70 to 74, 76, 80 to 87, 92 to 97, 100, 102 to 116, 118 to 121, 123 to 128, 130 to 132, 134, 135, 137 to 141, 142 to 145, 147 to 156, and 158 are renumbered only); R9-3-219; R9-3-502 (paragraph A to A.1 and A.2); R9-3-505 (paragraph B to B.1, B.2, B.3, and B.4); R9-3-508 (paragraph B to B.1, B.2, and B.5); R9-3-511 (paragraph A to A.1 and A.2); R9-3-513 (paragraph A to A.1 and A.2); R9-3-516 (paragraph A to A.1 and

A.2); R9–3–517 (paragraph A to A.1); R9–3–518 (paragraph A to A.1 and A.2); R9–3–520 (paragraph A to A.1 and A.2); R9–3–521 (paragraph A to A.1 and A.2); R9–3–522 (paragraph A to A.1 and A.2); and Appendix 8 (Sections A8.3.1 and A8.3.2).

* * * * *

[FR Doc. 82–26581 Filed 9–27–82; 8:45 am]
BILLING CODE 6560–50–M

---

40 CFR Part 52

[A–8–FR 2188–5]

Approval and Promulgation of State Implementation Plans; Colorado

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is approving revisions to the Colorado State Implemention Plan (SIP). The revisions establish plans for achieving and maintaining the National Ambient Air Quality Standard (NAAQS) for lead in Denver, Grand Junction, and Pueblo in accordance with Section 110 of the Clean Air Act (the Act). The Governor of Colorado submitted the revisions to the EPA on April 12, 1982, following Public Hearing and adoption by the Colorado Air Quality Control Commission, both on February 25, 1982.

DATES: This action will be effective on November 29, 1982 unless notice is received by October 28, 1982, that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision 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, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

The Office of the Federal Register, 110 L. Street NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Paula R. Machlin, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–6131.

SUPPLEMENTARY INFORMATION: On October 5, 1978, the EPA established an NAAQS for lead in accordance with Section 109 of the Act 43 FR 46246 (1978). Under Section 110 of the Act, each State must submit to EPA a plan to attain and maintain the NAAQS. The Act also directs EPA to review the State plan to determine whether it meets requirements established under Section 110 of the Act. If requirements are met, the EPA can approve the plan. Requirements for an adequate lead SIP are established in the 40 CFR Part 51 Subpart E—Control Strategy for Lead. Based on those requirements, the EPA finds that the subject plan to achieve the lead NAAQS for Colorado is approvable.

Analysis of air quality data collected by the State of Colorado for 1974 through 1979 showed violations of the lead NAAQS in three areas: Denver, Grand Junction, and Pueblo. The EPA hired a consulting firm (ETA Engineering, Inc.) to prepare a technical analysis that identified lead emission sources and predicted future ambient concentrations. The State was expected to prepare the lead SIP based on that technical analysis.

The analysis found that, in Denver and Grand Junction, motor vehicle emissions were largely responsible for the monitored standards violations; in Pueblo, both motor vehicle emissions and lead particulate emissions from the CF&I Steel Mill were responsible for the monitored violations. However, modeling by the contractor showed that each area would meet the lead NAAQS by 1982 at the latest, based on implementation of programs that were already planned. Therefore, no additional control strategies were needed in the SIP to provide attainment. As required under 40 CFR Subpart E, the state has adopted regulations that control lead emissions. Although not described in the subject submittal, the EPA considered these regulations as part of the lead SIP.

In Denver and Grand Junction, the following factors result in the emissions reductions needed to meet the lead NAAQS: the federal program to improve fuel economy, the federal program to decrease the average lead content of gasoline, and an increase in the proportion of catalyst cars (which use unleaded gas) over noncatalyst cars (which use leaded gas) due to normal fleet turnover. In Pueblo, air pollution control equipment installed at CF&I subsequent to the year in which violations were measured reduced lead emissions from the plant substantially. In fact, no violations have been measured since 1974. The emissions reductions at CF&I and those expected from federal programs and fleet turnover achieve the reductions needed to maintain the lead NAAQS.

The EPA has reviewed the technical analysis in the SIP Revision and found that the analysis is appropriate. The SIP was submitted to EPA following Public Hearing as required under 40 CFR Part 52. Consequently, we find that the Colorado lead SIP Revision are approvable.

EPA is today approving these revisions. The public is advised that this action will be effective (60 days). However, if we receive written notice by (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 this final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Clean Air Act, petitions for review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 29, 1982. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

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

List of Subjects in 40 CFR Part 52

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

This rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 USC 7410).

Dated: August 24, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

Note: Incorporation by reference of the State Implementation Plan for the State of Colorado was approved by the Director of the Federal Register on July 1, 1982

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION

1. Section 52.320 paragraph (c) (27) and (28) are added as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(27) On April 12, 1982, the Governor submitted the plan revisions to show attainment of the lead National Ambient Air Quality Standard.

(28) Regulation Number 7 is part of the plan.

[FR Doc. 82-26575 Filed 9-27-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Department Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Revocation of regulations.

SUMMARY: Subpart H of this title was issued to prescribe procedures for hearings and appeals under Exec. Order No. 11246, *as amended* by Exec. Order No. 11375. These functions were transferred to the Department of Labor by Exec. Order No. 12086, thus making 43 CFR Part 4, Subpart H, obsolete and requiring its revocation. A proposal to revoke this rule was published for public comment on May 27, 1980 (45 FR 35351). No comments were received. Subpart K of this title was issued to prescribe procedures for hearings and appeals of disenrollment contests for Alaska Natives under the Alaska Native Claims Settlement Act, 43 U.S.C. 1604. The deadline to file disenrollment contests (October 1, 1978) has passed (*see* 25 CFR 43h.15(h)) and all contests have been concluded in the administrative and judicial forums, thus making 43 CFR Part 4, Subpart K, obsolete and requiring its revocation. A proposal to revoke this rule was published for public comment on May 27, 1980 (45 FR 35351). No comments were received.

EFFECTIVE DATE: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Kathryn Lynn, Attorney-Adviser, Office of Hearings and Appeals, (703) 235-3816.

SUPPLEMENTARY INFORMATION: The Department of the Interior has determined that this document is not a significant rule as defined in Exec. Order No. 12291, and does not require a regulatory analysis under the regulatory Flexibility Act (Pub. L. 96-354). Furthermore, the Department has determined that the revocation of these rules will not adversely affect the human environment within the meaning of the National Environmental Policy Act of 1969, *as amended* (42 U.S.C. 4321-4361 (1976)).

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Subpart H—§§ 4.750-4.792 [Reserved]

Subpart K—§§ 4.1000-4.1011 [Reserved]

Under the authority of the Secretary of the Interior contained in 5 U.S.C. 301, 43 CFR Part 4, Subparts H and K are hereby revoked and reserved.

Dated: August 31, 1982.

Donald Paul Hodel,

Under Secretary.

[FR Doc. 82-26587 Filed 9-27-82; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

43 CFR Part 2820

[Circular No. 2515]

Roads and Highways; Revocation of Regulations Concerning Roads and Highways

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking revokes the existing regulations concerning the granting of right-of-way to State agencies by the Bureau of Land Management in coordination with the Federal Highway Administration. These regulations are burdensome, counterproductive and are no longer needed. They will be replaced by an interagency agreement between the Department of the Interior and the Department of Transportation as authorized by section 307 of the Federal Land Policy and Management Act.

EFFECTIVE DATE: October 28, 1982.

ADDRESS: Any suggestions or inquiries should be sent to: Director (330), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Leon Kabat, (202) 343-5441.

SUPPLEMENTARY INFORMATION: The proposed rulemaking deleting the existing regulations on Highways and Roads—43 CFR 2820—was published in the **Federal Register** on May 10, 1982 (47 FR 20009). Comments were invited for a 30-day period during which time three comments were received. Two of the comments were from States and the third comment come from a Federal agency. All of the comments have been reviewed and given careful consideration as part of the decisionmaking process on the final rulemaking.

The comments expressed the view that the process now used for granting of rights-of-way under the existing regulations, while it may be burdensome and counterproductive, is understood by those involved in the process and is less burdensome than similar processes used by other Federal agencies under a memorandum of understanding. In responses to the suggestions made in the comments, the Department of the Interior is working with the Department of Transportation in the development of an interagency agreement that will simplify the procedure for granting rights-of-way across Bureau of Land Management lands for State highways and roads. The process will be designed to provide the States with rights-of-way in the least burdensome manner possible, while providing adequate protection for the public lands. The Bureau of Land Management will continue its efforts in working with the States and the Federal Highway Administration to give the quickest possible service on applications for rights-of-way for State highways and roads crossing lands under its jurisdiction.

After careful consideration of the views expressed in the comments, the decision has been made to proceed with the revocation of the regulations in 43 CFR Part 2820 as proposed in the proposed rulemaking and finalized in the final rulemaking.

The principal author of this final rulemaking is Leon Kabat, Division of Rights-of-Way, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Under the authority of sections 107(d) and 317 of Title 23 of the United States Code (72 Stat. 885, 892 and 916) and section 307 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737), Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as follows:

List of Subjects in 43 CFR Part 2880

Highways and roads, Public lands—rights-of-way.

Dated September 8, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 2820—ROADS AND HIGHWAYS [REMOVED]

1. Part 2820 is removed in its entirety.

[FR Doc. 82-26578 Filed 9-27-82; 8:45 am]

BILLING CODE 4310-84-M

Proposed Rules

Federal Register
Vol. 47, No. 188
Tuesday, September 28, 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

Federal Grain Inspection Service

7 CFR Part 800

Proposed Changes to Sampling Provisions by Kind of Movement

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is proposing to revise the regulations under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*), (Act) to provide that each official sample-lot inspection for grade, factors, or other criteria on (1) domestic cargo shipments (barges) of bulk or sacked grain, (2) export land carrier shipments (railcars and trucks) of bulk or sacked grain, and (3) export cargo shipments of sacked grain be based on official samples obtained from the grain by any sampling method approved by FGIS without a statement being added to the certificate qualifying it as to the sampling method used. Under present regulations, a diverter-type (D/T) mechanical sampler must be used on these kinds of movements after January 1, 1983. Otherwise, a statement will be added to the inspection certificate indicating the samples may not be as representative as those obtained with a D/T mechanical sampler.

DATE: Comments must be submitted on or before October 28, 1982.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management, USDA, FGIS, Room 1636 South Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–0231. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., (address as above) telephone (202) 382–0231.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1. The action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The effect of the proposed rule is to reduce the extent of regulatory control to which many entities, including some small entities, would be subjected.

Proposed Action

FGIS is proposing to revise § 800.18 and § 800.83 (7 CFR 800.18, 800.83) of the regulations to provide that each official sample-lot inspection for grade, factors, or other criteria on (1) domestic cargo shipments (barges) of bulk or sacked grain, (2) export land carrier shipments (railcars and trucks) of bulk or sacked grain, and (3) export cargo shipments of sacked grain be based on official samples obtained from the grain by any sampling method approved by FGIS without a statement being added to the inspection certificate indicating the samples may not be as representative as those obtained with a D/T mechanical sampler.

The sampling methods currently approved by FGIS are the D/T mechanical sampler, probe, Ellis cup, pelican, and Woodside sampler, when used according to the procedures in instructions. Each certificate issued for an official sample-lot inspection on any domestic shipment of grain and on all export shipments of grain in railcars and trucks currently specifies the sampling method used. If this proposal is adopted, the sampling method would continue to be specified. Under the present regulations, when the D/T mechanical sampler is not used as required after January 1, 1983, the certificate will show the following additional statement: "The lot of grain represented by this certificate was sampled by means of (*type of approved sampling methods*). Samples obtained by this method may not be as representative as those obtained by approved diverter-type mechanical samplers."

The requirements to base official inspection results for domestic barge shipments of grain and export shipments of grain (except bulk export cargo shipments) on official samples obtained with a D/T mechanical sampler was originally scheduled to become effective January 1, 1982, as published in the March 11, 1980, **Federal Register** (45 FR 15802–15873). FGIS published an emergency final rule on December 1, 1981 (46 FR 58277), delaying the January 1, 1982, effective date for the required use of D/T mechanical samplers to January 1, 1983.

This requirement was enacted because a D/T mechanical sampler, which is designed to sample grain on line (i.e., during a continuous loading or unloading operation), can obtain a more uniform and representative sample from large volumes of grain being loaded at high speed than can the other sampling methods currently approved by FGIS for sampling grain during the loading operation.

Recently, FGIS has received numerous letters from grain merchandising companies and elevator operators who did not submit comments when the requirement was initially proposed. The letters provide information that indicates the requirement to use the D/T mechanical sampler on domestic barge shipments and export railcar and truck shipments does not provide the flexibility needed in the grain marketing system because the D/T mechanical sampler cannot be used for sampling grain at rest in a carrier. The information provided by these companies notes that, since the certificate specifies the sampling method used, there is no need to qualify the certificate with a statement as to the ability of the sampling method to obtain representative samples. After evaluating the information provided and considering the recommendation of the FGIS Advisory Committee to eliminate the requirement, FGIS is publishing this proposal.

Further, the information received indicates the requirement to use the D/T mechanical sampler on domestic barge shipments of bulk and sacked grain may be incompatible with established barge

trading rules and practices. Barges are often loaded well in advance of the bill of lading date because of uncertain weather conditions, the availability of barges, the need to transfer grain from a full warehouse to accept new receipts, and the desire to load several barges over a period of time and ship them together at a later date. The barges are then sampled shortly before the bill of lading date while the grain is at rest in the barge. This is to comply with the barge trading rules, which require the official inspection certificate be dated within 3 calendar days of the bill of lading date. In these cases, the requirement does not provide the industry flexibility to market the barges when desired because the D/T mechanical sampler is practical for sampling grain only at the time the carrier is loaded.

Information recently provided to FGIS also indicates an increase in the use of online "over the bank" barge loading systems, which are essentially a truck dump with a conveyor to the barge. Installation of a D/T mechanical sampler on such loading systems would be difficult and costly or, in some cases, impossible.

The comments received on this regulation when it was proposed stressed the cost of installing and tending the D/T mechanical sampler, the possibility of mechanical breakdowns, the problems with scheduling barges and official inspection personnel, and general satisfaction with other approved sampling methods as reasons for opposing the requirement. The issue of potential incompatibility of the regulation with industry trading rules and practices did not surface at that time.

Questions have also been raised regarding the extent to which the requirement to use D/T mechanical sampler on export shipments in railcars and trucks will provide the flexibility needed in the grain marketing system. Because the volume of grain exported to Canada and Mexico in railcars and trucks has increased substantially in recent years, the requirement to use the D/T mechanical sampler for these kinds of movements may affect the ability of some companies to merchandise grain. Many companies shipping railcars and trucks to Canada and Mexico are small entities, shipping a relatively low volume of grain. The volume each such entity exports is often small compared to the volume shipped in domestic movements. The D/T mechanical sampler is not required for domestic railcar and truck movements, and these companies could be excluded from the export market if required to install D/T mechanical samplers only for this kind of movement. Moreover, each certificate issued for export shipments of grain in railcars and trucks specifies the sampling method used and, under this proposal, would continue to specify the sampling method used.

The requirement to use the D/T mechanical sampler for export cargo shipments of sacked grain should be eliminated if the requirement is eliminated for domestic cargo shipments (barges) of sacked grain, as proposed. While an unqualified inspection certificate would be issued for domestic shipments of sacked grain to an export port location regardless of the method of sampling used, after January 1, 1983, the exporter would be required to unsack the grain, reelevate it, sample it with a D/T mechanical sampler, and resack it to receive an unqualified export inspection certificate. This process would be extremely time consuming and costly. Moreover, current instructions provide that, under certain conditions, official inspection certificates issued for a domestic shipment of sacked grain to an export port location can be exchanged for an unqualified export inspection certificate when the sacks are loaded aboard the export carrier. If the D/T mechancial sampler is required for export cargo shipments of sacked grain but not for domestic shipments of sacked grain, this accepted procedure would, in effect, no longer be available. If this proposal is adopted, this procedure would continue unchanged. Further, under this proposal, unqualified inspection certificates would be issued for export cargo shipments of grain sacked at the export port location, regardless of the method of sampling used.

Under this proposal, export cargo shipments of bulk grain are the only kind of movement that would be required to have official sample-lot inspections based on official samples obtained with a D/T mechanical sampler as a condition for issuing a certificate without a qualifying statement. This requirement has been in effect since May 1, 1976, for bulk cargo shipments of grain exported from the United States and since March 31, 1981, for shipments exported from Canada. It will remain in effect for export cargo shipments of bulk grain because, in view of the large volume of grain in this kind of movement and the speed at which it is loaded, a D/T mechanical sampler can obtain a more uniform and representative sample than can other sampling methods approved by FGIS for sampling grain on line or at rest in the carrier. Moreover, FGIS has no information which would question the propriety of this requirement. If another sampling method is used for an official sample-lot inspection on this kind of movement, the certificate issued will continue to show the following statement: "The lot of grain represented by this certificate was sampled by means of (*type of approved sampling method*). Samples obtained by this method may not be as representative as those obtained by approved diverter-type mechanical samplers."

Although the effect of this proposal is to change the sampling requirement only for (1) domestic cargo shipments (barges) of bulk or sacked grain, (2) export land carrier shipments (railcars and trucks) of bulk or sacked grain, and (3) export cargo shipments of sacked grain, the text of § 800.83 of the regulations would be revised in its entirety by classifying the kinds of movements as bulk export cargo movements, sacked export cargo movements, and other movements, instead of "In," "Out," en route, and "LOCAL" movements, to reflect the revised sampling requirements in a more simplified context. Other appropriate changes have been made in the text so as to accomplish the purpose of this proposal.

Based on the foregoing, the Administrator of FGIS is proposing to revise § 800.18 and § 800.83 to provide that each official sample-lot inspection for grade, factors, or other criteria on (1) domestic cargo shipments (barges) of bulk or sacked grain, (2) export land carrier shipments (railcars and trucks) of bulk or sacked grain, and (3) export cargo shipments of sacked grain be based on official samples obtained from the grain by any sampling method approved by FGIS without the inspection certificate being qualified as to the method of sampling used.

In order to inform grain merchandising companies, elevator operators, and other affected parties of the status of the regulation at the earliest possible date, a 30-day comment period is deemed adequate. All interested persons are encouraged to carefully review this proposal and submit written comments.

Specifically, § 800.18 would be amended by revising subdivision (1) of paragraph (a). Section 800.83 would be amended in its entirety by revising paragraphs (a) through (e) and relettering them as (a) and (b). In addition, § 800.161 would be amended by changing the reference to "§ 800.83(e)" in paragraph (b)(11) to "§ 800.83(a)."

List of Subjects in 7 CFR Part 800

Administrative practices and procedures, Export, and Grain.

PART 800—GENERAL REGULATIONS

Accordingly, it is proposed that § 800.18, § 800.83, and § 800.161 (7 CFR 800.18, 800,83, and § 800.161) of the regulations under the Act be amended as follows:

1. Section 800.18(a)(1) is revised to read:

§ 800.18 Special inspection and weighing requirements for sacked export grain.

(a) *General.* Subject to the provisions of § 800.19, sacked export grain shall be (1) officially inspected based on official samples obtained from the grain by any sampling method approved by the Service and operated in accordance with the instructions, (2) * * *

2. Section 800.83 (a) and (b) are revised to read:

§ 800.83 Sampling provisions by kind of movement.

(a) *Export cargo movements.*—(1) *Bulk grain.* Except as may be approved by the Administrator on a shipment-by-shipment basis in an emergency, each lot inspection for official grade, official factor, or official criteria on an export cargo shipment of bulk grain shall be based on official samples obtained from the grain (i) as the grain is being loaded aboard the final carrier; (ii) after the final elevation of the grain prior to loading and as near to the final loading spout as is physically practicable (except as approved by the Administrator when representive samples can be obtained before the grain reaches the final loading spout); and (iii) by means of a diverter-type mechanical sampler approved by the Service and operated in accordance with instructions. If an approved diverter-type mechanical sampler is not properly installed at an elevator or facility as required, each certificate issued at that elevator or facility for an export cargo shipment of bulk grain shall show the following statement: "The lot of grain represented by this certificate was sampled by means of *(type of approved sampling method).* Samples obtained by this method may not be as representative as those obtained by approved diverter-type mechanical samplers."

(2) *Sacked grain.* Each lot inspection for offical grade, official factor, or official criteria on an export cargo shipment of sacked grain shall be based on official samples obtained from the grain by any sampling method approved by the Service and operated in accordance with the instructions.

(b) *Other movements.* Each lot inspection for offical grade, offical factor, or official criteria on a domestic cargo movement ("In," "Out," or en route barge movement), a movement in a land carrier (any movement in a railcar, truck, trailer, truck/trailer combination, or container), or a "LOCAL" movement of bulk or sacked grain shall be based on official samples obtained from the grain by any sampling method approved by the Service and operated in accordance with the instructions.

* * * * *

§ 800.161 [Amended]

3. Section 800.161 is amended by changing the reference to "§ 800.83(e)" in paragraph 800.161(b)(11) to "§ 800.83(a)."

(Sec. 18, Pub. L. 94–582, 90 Stat. 2884 (7 U.S.C. 87e))

Dated: September 10, 1982.

Kenneth A. Gilles,

Administrator.

[FR Doc. 82–26620 Filed 9–27–82; 8:45 am]

BILLING CODE 3410–EN–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC–12679, File No. S7–944]

Exemption From All Provisions of the Investment Company Act of 1940 for Certain Finance Subsidiaries of United States and Foreign Private Issuers.

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission today is proposing for public comment a comprehensive revision of rule 6c–1 under the Investment Company Act of 1940 that would exempt certain finance subsidiaries of United States and foreign private issuers from all provisions of that Act, subject to certain conditions. The proposed rule would obviate the necessity for such companies to apply for, and the Commission to issue, individual orders of exemption.

DATE: Comments must be received by November 5, 1982.

ADDRESS: Interested persons wishing to submit their views and comments on the proposed rule should file four copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifgh Street NW., Washington, D.C., 20549. All submissions should refer to File No. S7–944 and will be made available for public inspection at the Commission's Public Reference Section, Room 1024, 450 Fifth Street NW., Washington, D.C., 20549.

FOR FURTHER INFORMATION CONTACT: Bruce Mendelsohn, Esq., (202) 272–2048, or Lewis B. Reich, Esq., (202) 272–3017, Investment Company Act Study, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is publishing for public comment a proposed comprehensive revision of rule 6c–1 [17 CFR 270.6c–1] under the Investment Company Act of 1940 (the "Act") [15 U.S.C. 80a–1 *et seq.*]. The proposed revision would exempt from all provisions of the Act, subject to certain conditions, various finance subsidiaries of United States and foreign private issuers.

I. Background

For a variety of tax and other regulatory reasons, corporations in certain circumstances may, rather than issue their own debt securities directly, prefer to borrow funds by guaranteeing debt issued by wholly-owned subsidiaries formed primarily for that purpose.[1]

[1] Among other things, a U.S. corporation planning a Eurobond financing usually will want to make sure that interest payments to holders of the securities are not subject to U.S. withholding tax. While the Commission expresses no opinion as to the tax consequences of any particular arrangement, it appears that U.S. corporations have created domestic finance subsidiaries so that interest payments on their debt obligations purchased by nonresidents may be exempt from U.S. withholding tax. In this regard, section 861 of the Internal Revenue Code provides that U.S. sources are exempt from U.S. withholding on interest paid to non-residents. Thus, a domestic finance subsidiary is a common technique for U.S. corporations wishing to raise capital in the Euromarket for investment in foreign subsidiaries or affiliates.

If a substantial part of the proceeds of a Eurobond financing is to be invested in a U.S. corporation's domestic operations, the finance subsidiary is unlikely to meet the requirements of section 861. In this situation the preferred technique appears to be a foreign finance subsidiary that can relend the proceeds to the U.S. parent or affiliates. Such foreign subsidiaries have been established in countries having tax treaties with the U.S. which provide, among other things, that interest paid on the subsidiaries' debt is exempt from U.S. tax unless the recipient is a U.S. person. *See* Newburg, "Financing in the Euromarket by U.S. Companies: A Survey of the Legal and Regulatory Framework," 33 *The Business Lawyer* 2171 at 2189–2191 and 2194 (July 1978); *See also,* von Clem, "United States Companies Raising Capital Abroad," 3 *Journal of Comparative Corporate Law and Securities Regulation* 320–329 (1981).

In addition, as discussed in greater detail below, a foreign issuer offering debt securities in the U.S. may use a U.S. finance subsidiary so that the

Such finance subsidiaries would, in most cases, be deemed investment companies under section 3(a)(3) of the Act [15 U.S.C. 80a-3(a)(3)], which defines the term to include "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 . . . on an unconsolidated basis." [2] When the proceeds of its issue of debt are invested in or loaned to the parent or one of the parent's subsidiaries, the finance subsidiary would receive acknowledgements of the investment or evidence of indebtedness that would be considered investment securities under the Act. If these amounted to more than 40% of its total assets, the subsidiary would be required either to register as an investment company [3] or apply for an order of the Commission pursuant to section 6(c) of the Act [15 U.S.C. 80a-6(c)] exempting it from all provisions of the Act.[4]

The Commission, as discussed below, has on several occasions considered the status of such companies under the Act. In March 1968, the Commission adopted rule 6c-1 under the Act [17 CFR 270.6c-1], which exempted from all provisions of the Act, in specified circumstances, U.S. securities organized to finance the foreign operations of U.S. companies by selling the subsidiaries' debt securities to foreign nationals.[5] Such finance subsidiaries had been designed and created to comply with a voluntary cooperation program instituted by the President in February 1965. Their role in that program was to raise capital for the foreign operations of U.S. companies in a manner that would not adversely affect the balance of payments position of the United States.[6] They accomplished this by raising funds in foreign capital markets to finance the foreign operations of their U.S. parents, enabling the parents to refrain from exporting U.S. capital.

As discussed above, the finance subsidiaries fell within the definition of "investment company" in section 3(a) of the Act. However, since, in general, they were investing in and loaning funds only to their parents and affiliates of their parents,[7] it was determined that they were not engaging in the kind of business the Act was intended to regulate. The subsidiaries served merely as conduits for financing the parents' foreign operations. Their debt was fully guaranteed by their parents, and purchasers of the subsidiaries' debt looked to the parents for their assurance of repayment. Thus, upon application to the Commission, such finance subsidiaries routinely had been granted orders pursuant to section 6(c) of the Act exempting them, subject to certain conditions, from all provisions of the Act. The rationale for the exemptions was that as a consequence of the parent company's guarantee and the limited activities of the finance subsidiary, the debt securities of the finance subsidiary were in effect debt of its parent company, and there would have been no issue under the Act had the parent issued its own debt directly.

In March 1968, after processing the applications of 39 such finance subsidiaries [8] and reviewing the reports they had been required to make under their individual orders of exemption, the Commission decided that it was appropriate to codify existing policies and no longer necessary to follow the application procedure. Accordingly, the Commission promulgated rule 6c-1 which included a number of conditions designed to limit narrowly the exemption it granted to the special purpose subsidiaries organized under the President's voluntary cooperation program.

One of those conditions, embodied in paragraph (c)(1) of the rule, requires that, at the time of their issuance, securities of the finance subsidiaries be subject to the Interest Equalization Tax ("I.E.T."). [9] The rule further states in paragraph (c)(2) that upon expiration of the I.E.T., covered finance subsidiaries may issue securities only upon order of the Commission. Since the I.E.T. expired in 1974, finance subsidiaries covered by the rule have been unable to issue securities relying on the rule alone.[10]

II. Discussion

The proposed amendment would

securities issued would qualify as legal investments under state laws regulating insurance companies and other institutions.

[2] Section 3(a)(3) defines "investment securities" to include all securities except (A) Government securities, (B) securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which are not investment companies.

Section 2(a)(36) of the Act defines "security" to include any . . . bond, debenture, evidence of indebtedness, . . . or any . . . receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing. [15 U.S.C. 80a-2(a)(36)].

[3] A domestic finance subsidiary which would be deemed to be an investment company under section 3(a)(3) of the Act is required by section 7(a) [15 U.S.C. 80a-7(a)] to register with the Commission if it proposes, *inter alia*, to "offer for sale, sell, or deliver after sale, by the use of the mails or any means or instrumentality of interstate commerce, any security or any interest in a security". A foreign finance subsidiary which would be deemed to be an investment company under section 3(a)(3) is required by section 7(d) [15 U.S.C. 80a-7(d)] to apply to the Commission for an order permitting the company to register under the Act if it proposes to "make use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to offer for sale, sell, or deliver after sale, in connection with a public offering, any security of which such company is the issuer."

[4] Section 6(c) of the Act provides that the Commission may, by rules and regulations upon its own motion, or by order upon application, conditionally or unconditionally exempt any person or any class of persons from any provision or provisions of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

[5] *See* Investment Company Act Release Nos. 5186 (December 7, 1967) [32 FR 1786] and 5330 (March 25, 1968) [33 FR 5295].

[6] Rule 6c-1 has its origins in the April 1964, report of the Presidential Task Force on Promoting Increased Foreign Financing for United States Corporate Securities and Increased Foreign Financing for United States Corporations Operating Abroad (the "Fowler Report"). Among other recommendations, the Fowler Report suggested the establishment of programs designed to maximize the use of foreign sources of finance in order to increase the overall positive contribution which U.S.-based international corporations could make to the U.S. balance of payments. It also made specific recommendations for action by the private sector.

[7] A finance subsidiary under rule 6c-1 was required pursuant to paragraph (b)(7) of that rule to invest 90% of its assets in companies that were at least 10% owned by the finance subsidiary's parent. Its remaining assets could only be invested in or loaned to customers and supplies of the parent or of the parent's subsidiaries or affiliates. This provision was intended to ensure that investments in a finance subsidiary were, in fact, being employed predominantly in operations related to the parent company's operations and not in a portfolio of securities issued by companies which the parent did not influence.

[8] *See, e.g.*, W. R. Grace Overseas Development Corporation, Investment Company Act Release Nos. 4397 (November 3, 1965) and 4406 (November 16, 1965) and Atlantic Richfield International Finance Corporation, Investment Company Act Release Nos. 4920 (April 3, 1967) and 4941 (April 28, 1967).

[9] Internal Revenue Code of 1954, ch. 41, sections 4911-4931 Pub. L. 88-563, September 2, 1964. In this context the I.E.T. deterred the purchase of the finance subsidiaries' debt by U.S. nationals or residents by subjecting the interest they received to an excise tax. The I.E.T. was introduced in 1963 in response to concern about increasing outflow of capital from the United States, and was generally designed to make foreign investment unattractive to U.S. investors.

Controls on U.S. investment abroad were removed with the dismantling of the balance of payments program in 1974. Coles, M.H. "Foreign Companies Raising Capital in the United States," 3 *Journal of Corporative Corporate Law and Securities Regulation* 300 (1981) at 300-301, and Newburg, *supra* note 1, at 2184f.

[10] *See. e.g.*, orders of exemption from the provisions of paragraph (c)(2) of the rule granted to General Electric Overseas Capital Corporation, Investment Company Act Release Nos. 8624 (December 27, 1974) and 8649 (January 22, 1975), and Ford International Capital Corporation, Investment Company Act Release Nos. 9943 (September 23, 1977) and 9961 (October 17, 1977).

expand the exemption afforded by rule 6c–1 to cover (in addition to U.S. finance subsidiaries of U.S. corporations selling securities outside the United States) U.S. finance subsidiaries of U.S. corporations selling securities in this country, foreign finance subsidiaries of U.S. corporations, and U.S. finance subsidiaries of foreign corporations, and would also update and revise the rule in certain significant respects.[11]

A. Expansion of the Scope of the Rule

Like the finance subsidiaries exempted by existing rule 6c–1, the types of finance subsidiaries which would be covered by the proposed rule have as their primary purpose the financing of their parent companies' operations. Because of the particular nature of these types of finance subsidiaries, the Commission believes that to require them to file individual applications for exemption would impose an unnecessary burden on the private sector and on the Commission. Based on such considerations and the experience it has had with these types of finance subsidiaries, the Commission is proposing that rule 6c–1 be amended to provide uniform exemptive treatment under the Act for these companies.

1. *Exemption for domestic and foreign finance subsidiaries of U.S. corporations:* Rule 6c–1 as originally adopted exempted only special purpose domestic finance subsidiaries of U.S. companies. The proposed revision would extend the exemption to include both domestic and foreign finance subsidiaries of U.S. corporations since, if operating in compliance with the conditions imposed by the proposed rule, they would not be engaging in the type of investment company business the Act was intended to regulate. Since the adoption of rule 6c–1 the Commission has processed a number of applications for exemption from all provisions of the Act filed by both domestic[12] and foreign[13] finance subsidiaries of U.S. companies that were not of the special purpose type covered by the existing rule.

2. *Exemption for U.S. finance subsidiaries of foreign corporations:* On November 20, 1981, the Commission proposed a new integrated disclosure system for foreign private issuers under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a *et seq.*] and the Securities Exchange Act of 1934 [15 U.S. 78a *et seq.*.] (the "Exchange Act").[14] This system, if adopted, would for the first time make certain foreign issuers eligible to use simplified short-form registration. The Commission believes that these proposals would reduce the burden and expense of public offerings in this country by qualified foreign issuers.

In connection with the foreign integration proposals, public commentators have indicated that in many cases foreign companies would choose to guarantee debt issued by wholly-owned U.S. subsidiaries rather than directly issue their own debt securities in the U.S. finance market. Purchasers of subsidiary's debt would rely on the credit of the parent company as guarantor. It is represented that this arrangement is occasioned by state laws in the United States restricting investments in debt securities of foreign issuers by institutions such as insurance companies. Under such state "legal investment" laws, debt securities of a foreign issuer may not be permissible investments,or the amount regulated institutions can invest in them may be limited.[15] Because participation by such regulated institutions might be important to the success of an offering, it is represented that the debt would be issued by the U.S. subsidiary so that the institutional participation would not be restricted.[16]

The Commission has processed a number of applications for exemption from the Act filed by such finance subsidiaries of foreign private issuers.[17] Commentators, however, have suggested that the necessity of a U.S. subsidiary obtaining an exemptive order by application and the attendant delay in its effecting a public offering of guaranteed debt would substantially

---

[11] The proposed amendment would be adopted pursuant to the authority granted to the Commission in sections 6(c) and 38(a) of the Act. Section 6(c) provides that the Commission may, by rules and regulations upon its own motion, or by order upon application, conditionally or unconditionally exempt any person or any class of persons from any provision or provisions of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act. Section 38(a) confers upon the Commission general rulemaking authority under the Act. The Commission is proposing this rule for public comment now so that it can be considered with minimum delay should the foreign integrated disclosure system be adopted in the near future.

[12] *See, e.g.*, Cortez Capital Corporation, Investment Company Act Release Nos. 12502 (June 23, 1982) and 12559 (July 26, 1982); Prudential Funding Corporation, Investment Company Act Release Nos. 12336 (March 29, 1982) and 12398 (April 27, 1982); Pembroke Capital Corporation, Investment Company Act Release Nos. 10485 (November 17, 1978) and 10522 (December 13, 1978); Mobil Alaska Pipeline Co., Investment Company Act Release Nos. 8657 (January 30, 1975) and 8678 (February 19, 1975). *See also* pending application of Amax International Finance Corporation, File No. 812–5203. Some of these finance subsidiaries were formed to fund specific projects (Cortez, Pembroke, Mobil Alaska) while others were organized to finance a variety of operations of their parents (Amax, Prudential).

[13] *See* Exxon Finance N.V., Investment Company Act Release Nos. 12485 (June 11, 1982) and 12547 (July 14, 1982).

[14] Securities Act Release No. 33–6360 (November 20, 1981) [46 FR 58511].

[15] For example, the New York Insurance Law, which applies to any insurance company authorized to do business in New York, provides that an insurance company may not purchase debt securities of foreign issuers in an aggregate amount that exceeds 1% of its "admitted assets" (New York Insurance Law § 81 (McKinney) 8(b)). In some circumstances, commentators state, the issuer must be organized under the laws of one of the United States, and also must have an earnings history over the previous three to five years in order to qualify as a legal investment.

[16] The Commission is offering no opinion on whether debt securities of such finance subsidiaries would meet any state law requirements regarding permissible investments by regulated institutions.

[17] *See, e.g.*, DSAG Corporation, Investment Company Act Release Nos. 10204 (April 13, 1978) and 10243 (May 17, 1978) (Canadian parent); Baychem Funding Corporation, Investment Company Act Release Nos. 7675 (February 16, 1973) and 7728 (March 19, 1973) (West German parent); BP North Ameican Finance Corporation, Investment Company Act Release Nos. 4332 (August 20, 1965) and 4350 (September 9, 1965) (British parent).

Besides the finance subsidiaries discussed above, the Commission and its staff have considered the status under the Act of another class of wholly-owned subsidiaries of foreign corporations issuing securities guaranteed by their parents. The Commission has granted a number of applications for orders of exemption filed by foreign banks and their U.S. finance subsidiaries that wished to sell commerical paper and other securities in the United States. Banks, as defined in section 2(a)(5) [15 U.S.C. 80a–2(a)(5)] of the Act, are excluded pursuant to section 3(c)(3) [15 U.S.C. 80a–3(c)(3)] of the Act, from the definition of investment company. However, foreign banks do not fall within the section 2(a)(5) definition of a bank, which includes only United States banks. Therefore, because notes that evidence the loans made by the foreign banks (and which constitute the major portion of the banks' assets) would be deemed securities within the meaning of section 2(a)(36) of the Act, foreign banks would be deemed investment companies under sections 3(a)(1) [15 U.S.C. 80a–3(a)(1)] and 3(a)(3) of the Act. Some of these banks proposed to enter U.S. capital markets directly, but others proposed to guarantee securities that they would sell through wholly-owned subsidiaries organized in the United States. Because substantially all of the assets of the banks' finance subsidiaries would be evidence of amounts receivable from the parent bank, the subsidiaries, like their parent banks, would be deemed investment companies under section 3(a)(1) and 3(a)(3) of the Act. These bank subsidiaries have been granted orders of exemption for many of the reasons applicable to the subsidiaries discussed in the text. In essence, the bank subsidiaries merely serve as conduits for the indirect issue of debt by the parent banks. *See, e.g.*, Barclays Bank Limied, Investment Company Act Release No. 11052 (February 15, 1980) and Barclays North American Finance, Inc., Investment Company Act Release No. 11654 (February 27, 1981).

Finance subsidiaries of foreign banks would not be covered by the proposed revision of rule 6c–1. The foreign bank parents, as discussed previously, are deemed investment companies under the Act. Paragraph (a)(1) of the rule would exclude from the rule's coverage finance subsidiaries of investment parents.

reduce the benefits that could otherwise be realized from the proposed integrated disclosure system.[18] In periods of volatile interest and exchange rates, the processing time required might cause a prospective issuer to miss a favorable opportunity for an offering.

3. *Rationale for the Exemptions:* The Commission has granted orders of exemption upon application to the types of finance subsidiaries described above because the Commission believes such types were not intended to be regulated under the Act. The finance subsidiaries that the Commission proposes to exempt by the revision of rule 6c–1 are the same types of companies. All of their equity securities would be owned by non-investment company parents. Neither their structure nor their mode of operation resembles that of a typical investment company. Under the rule, they would not be able to engage in a general program of investment but would serve primarily as conduits for their parents to raise capital. The only securities a subsidiary would publicly offer would be debt guaranteed by the parent.[19] Since the debt would be sold on the basis of the parent's credit, purchasers of the debt would look to the parent for their assurance of repayment despite the interposition of the subsidiary. Absent unusual circumstances, if the parent were to issue the debt directly, no question would arise under the Act.

B. Other Revisions of the Rule

In addition to expanding the scope of the rule as described above, the proposed revision would clarify the definition of finance subsidiary, eliminate a number of restrictions on the activities of covered finance subsidiaries that are included in the present rule because of its narrow exemptive purpose, and require that the parent's guarantee allow the holders of a finance subsidiary's debt securities to proceed directly against the parent in the event of default.

1. *Clarifying the definition of "finance subsidiary":* Paragraph (a)(1) of the proposed revised rule would continue to define a finance subsidiary to be a corporation the outstanding voting securities of which (other than directors' qualifying shares) are owned by a non-investment company parent or subsidiary of a non-investment company parent. However, since the status of the parent under section 3(a)(3) of the Act depends upon the value of the "investment securities" held by the parent and securities issued by majority-owned subsidiaries may be excluded as "investment securities" only if those subsidiaries are not investment companies,[20] the situation could arise where a finance subsidiary could not rely on the rule simply because the value of that finance subsidiary's securities in the parent portfolio caused the parent to be considered an investment company under section 3(a)(3). To avoid that result, the proposed revision would add a clause stating that, for the purpose of the rule, securities of a finance subsidiary held by its parent or another subsidiary of its parent shall not be considered investment securities.

2. *Updating the rule:* The Commission proposes to delete as unnecessary paragraph (c) of the rule 6c–1, which provides that covered finance subsidiaries may issue securities after the expiration of the Interest Equalization Tax only upon order of the Commission.[21]

3. *Sales of debt securities in the United States:* The finance subsidiaries exempted by rule 6c–1 were special purpose funding vehicles designed to assist a national program to improve the United States balance of payments position. In keeping with that special purpose, finance subsidiaries covered by rule 6c–1 were not permitted to sell their debt securities to nationals or residents of the United States or its territories or possessions [17 CFR 270.6c–1(b)(4)]. Since that program is no longer in effect, the proposed amendment would eliminate paragraph (b)(4) of the rule, which expressed that restriction, and thus allow sales of debt securities by covered finance subsidiaries in the United States.[22]

The Commission is proposing to remove this limitation because allowing sales of debt securities in this country would not change the nature of the operations of the covered subsidiaries as financing conduits.

4. *Removing investment restrictions:* The proposed revision would also delete paragraphs (b)(6) and (b)(7) of the existing rule. Paragraph (b)(6) required the special purpose finance subsidiaries to invest at least 80 per cent of their assets, excluding U.S. government securities and cash items, in foreign companies. Paragarph (b)(7) required at least 90 per cent of the assets of the finance subsidiary to be invested in or loaned to companies in which the parent held, directly or indirectly, at least a 10 per cent equity interest, and the remainder of the assets invested in or loaned to suppliers or customers of the parent or its subsidiaries. Paragraph (b)(6) related to the special purpose design of the exemption. Paragraph (b)(7) was intended to restrict narrowly the investment of the finance subsidiaries to the foreign investment objectives of the parent companies that created them.

Paragraphs (b)(6) and (b)(7) by their terms were concerned only with the special purpose finance subsidiaries covered by rule 6c–1. The proposed revision includes requirements that apply more broadly. It requires that the primary purpose of a covered finance subsidiary be the financing of the business operations of the parent company, and prohibits covered finance subsidiaries from dealing or trading in securities, and from holding securities other than those resulting from its primary purpose. Those conditions should be sufficient to ensure that the exemption does not provide a vehicle through which some other type of investment company warranting regulation might evade the Act.

Commentators have represented that a U.S. finance subsidiary of a foreign private issuer may find it necessary to have other, non-financing, operations in order to allow it to meet earnings tests under state legal investment laws. Given the primary purpose test of the proposed rule, as well as other requirements which, among other things, would prohibit the subsidiary from dealing or trading in securities, the Commission

[18] Notice of an application for exemption from the Act must be published in the Federal Register, and a notice period must expire before the Commission can act on an application.

[19] Any registration statement filed under the Securities Act would contain the same disclosure, including financial statements, regarding the parent/guarantor as would be required for a direct offering of securities by that parent. The parent's guarantee would itself be considered a separate security under section 2(1) of the Securities Act [15 U.S.C. 77(b)(1)] and, therefore, would also require registration.

[20] *See* note 2 *supra.*

[21] The proposed revision also deletes as no longer necessary the time limitation in paragraph (b)(5) of the existing rule, which provides that securities issued by a covered finance subsidiary shall not be convertible or exchangeable for securities of the parent any sooner than six months from the date of issue except where a shorter period of time has been approved by the Secretary of the Treasury or his delegate.

[22] The Commission's staff has taken the position that it would not recommend any action for failure to register under the Securities Act of 1933 securities of U.S. issuers distributed abroad to foreign nationals if the offering was made "under circumstances reasonably designed to preclude distribution of the securities within, or to nationals of, the United States" and was effected "in a manner which will result in the securities coming to rest abroad." (Securities Act Release No. 4708 (July 9, 1964)). This position covered the securities issued by the special purpose finance subsidiaries under rule 6c–1. If securities are offered in the United States, registration under the Securities Act will be required unless some other exemption from registration is available.

does not believe that some degree of non-financing activities should render the proposed exemption unavailable in such circumstances.

5. *Guarantee:* The proposed revision also requires that the parent company's guarantee provide that in the event of a default with respect to a security issued by the finance subsidiary, creditors of the finance subsidiary may proceed directly against the parent company to enforce the guarantee of that security without first proceeding against the finance subsidiary. The rationale underlying the exemption for finance subsidiaries is that the parent company's guarantee and other circumstances make the finance subsidiary's debt effectively the debt of the parent company. In that case, investors in the finance subsidiary's debt, who have relied on the credit of the parent company, ought to be able to proceed directly, if the need arises, against the party on whose credit the securities were marketed, without the intermediate step of proceeding against the finance subsidiary.[23]

6. *Registration of parent:* Paragraph (b)(1) of the existing rule limits the availability of the exemption to subsidiaries of parent companies that are issuers of a class of securities registered under section 12 of the Exchange Act [15 U.S.C. 78*l*], or exempted from such registration pursuant to rule 12g3–2(b) under that Act [15 CFR 240.12g3–2(b)], thereby limiting the availability of the rule to subsidiaries of parent companies which have some form of continuing disclosure obligation under the Exchange Act.[24] The proposed rule revision would delete that condition on the rationale that the issuance of debt securities by a finance subsidiary should be treated as though the debt securities were issued directly by the parent. If the parent would not incur a reporting obligation under the Exchange Act if it issued the debt securities directly, it seems inappropriate to impose such a reporting obligation if the parent chooses to issue debt securities indirectly through a finance subsidiary.

III. Request for Specific Comments

Specific comments are invited on whether the rule should limit the proposed exemption for finance subsidiaries of foreign private issuers to finance subsidiaries of "world class issuers," those that would be eligible to use proposed Form F–3 (as proposed, these would be foreign private issuers that have an equity float of at least $500 million, of which at least $150 million is held by U.S. residents, or that are registering investment grade debt securities).[25] In view of the importance of the parent's guarantee and the fact that the subsidiary would be little more than a conduit for financing, it may be appropriate to restrict the exemption to subsidiaries of foreign companies of a certain size or creditworthiness.

As proposed, the rule would require that a parent company directly and unconditionally guarantee as to principal, interest, and premium the debt securities issued by its finance subsidiary. The proposed revision retains this requirement as it appears in the existing rule. The rationale for the exemption of finance subsidiaries is that they are merely conduits, and their debt is in effect the debt of their parents. In order to provide a self-executing exemption through a rule, the Commission must be assured that the debt of the subsidiary is essentially debt of the parent company. The Commission is, however, aware that there may be other methods of structuring a corporate parent's assurance of the repayment of its finance subsidiary's debt.[26] In our experience, alternative types of guarantees that would not satisfy the requirements of the proposed revision have been utilized in every situation where a finance subsidiary has had more than one parent, and only occasionally elsewhere. The proposed revision therefore, like the existing rule, contemplates the exemption only of finance subsidiaries of a single parent.[27] However, the Commission is willing to consider accommodating multiple-parent finance subsidiaries and alternative guarantee structures that would be consistent with the rationale underlying the exemption. Specific comment is invited on whether and how the proposed rule's guarantee and other provisions might be revised so as to allow alternative methods of guarantee while still assuring that the finance subsidiary's debt would essentially be that of the parent.

Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the amendments to rule 6c–1 proposed herein. The Analysis notes that the proposed amendments to the exemptive rule will obviate the need for finance subsidiaries to file individual applications for exemption and will make available a more flexible form of financing for the parent companies. The proposed amendments are designed to make the exemptive relief afforded by the rule available to several types of finance subsidiaries.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Lewis B. Reich, Esq., Investment Company Act Study, Securities and Exchange Commission, Room 5086, 450 Fifth Street NW., Washington, D.C. 20549.

List of Subjects in Part 270

Investment companies, Reporting requirements, Securities.

Text of Proposal

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by revising § 270.6c–1 as follows:

---

[23] *See, e.g.*, application of Exxon Finance N.V., as amended (File No. 812–5186), at 5–6.

[24] Companies that are issuers of securities registered under section 12 are subject to the reporting requirements of section 13 and 14 of the Exchange Act and the rules and regulations thereunder; foreign companies that are issuers of securities exempted from registration under rule 12g3–2(b) are subject to the continuing disclosure requirements of paragraph (b)(1) of that rule.

[25] Securities Act Release No. 33–6360, text at footnote 37.

[26] Some of the finance subsidiaries cited in note 12 *supra*, were owned either by two parents (Pembroke Capital) or by a partnership of two or more wholly-owned operating subsidiaries of the parents (Cortez Capital). In such situations, the parents' guarantee of the finance subsidiary's debt securities has often been accomplished indirectly. For example, wholly-owned subsidiaries of different integrated petrochemical producers have formed a joint venture partnership to build a pipeline, and, in turn, the partnership has organized a finance subsidiary. The debt securities held by the finance subsidiary are the debt securities of the joint venture partnership. The wholly-owned subsidiaries guarantee their respective shares of the partnership debt by means of "throughput" and "deficiency" agreements providing (1) that they will provide the completed pipeline with a volume of business sufficient to ensure profitable operation that will enable it to repay its obligation to the finance subsidiary and (2) that in the event the partnership is unable to meet its obligations to the finance subsidiary, each operating subsidiary will be obliged to advance in cash to the partnership its percentage share of the deficiency as an advance payment of future charges for use of the pipeline. The rights and obligations of the partnership would then be pledged to secure the finance subsidiary's debt securities, and held by a trustee for purchasers of those securities. *See also* Sohio/BP note 12 *supra*. Such arrangements would not fall within the exemption provided by the proposed revision of the rule. Nor would an undertaking by the parent that it would cause the finance subsidiary to have, at all times, a consolidated net worth of at least $1.00 (*see* Prudential Funding, *supra* note 12) satisfy the rule's requirement of a guarantee by the parent.

[27] The proposed revision retains in paragraph (a)(1) the language defining a finance subsidiary as a corporation all of whose equity securities are owned by a single parent, or a subsidiary of such a parent.

§ 270.6c-1 Exemption for subsidiaries organized to finance the operations of domestic or foreign companies.

(a) For the purpose of this rule, a "finance subsidiary" shall mean any corporation:

(1) All of whose securities other than debt securities, non-voting preferred stock meeting the requirements of paragraph (b)(2) of this section, or directors' qualifying shares, are owned either by a foreign private issuer (in which case the finance subsidiary must be organized under the laws of the United States or of a State), or by a corporation organized under the laws of the United States or of a State (the "parent company"), or by another subsidiary of such a parent company, provided that neither the parent company nor such other subsidiary is an investment company as defined in section 3(a) of the Act; and

(2) The primary purpose of which is to finance the business operations of the parent company through borrowings or other sale of the finance subsidiary's securities.

(b) A finance subsidiary shall be exempt from all provisions of the Act, *provided that:*

(1) Any debt securities of the finance subsidiary issued to or held by the public are unconditionally guaranteed by the parent company as to payment of principal, interest and premium, if any (except that the securities issued by the finance subsidiary may be subordinated in right or payment to other debt of the parent company);

(2) Any preferred stock of the finance subsidiary issued to or held by the public is unconditionally guaranteed by the parent company as to payment of dividends, payment of the liquidation preference in the event of liquidation, and payments to be made under a sinking fund, if a sinking fund is provided;

(3) The parent company's guarantee provides that in the event of a default with respect to a security issued by the finance subsidiary, legal proceedings may be instituted directly against the parent company to enforce the guarantee of that security without first proceeding against the finance subsidiary;

(4) Any securities of the finance subsidiary which are convertible or exchangeable shall be convertible or exchangeable only for securities of the parent company; and

(5) The finance subsidiary does not deal or trade in securities or hold securities other than securities resulting from its primary purpose.

(c) For the purpose of this rule, securities of a finance subsidiary held by its parent or another subsidiary of its parent shall not be considered investment securities.

(Rule 6c-1 is proposed pursuant to sections 6(c) [15 U.S.C. 80a-6(c)] and 38(a) [15 U.S.C. 80a-37(a)] of the Act)

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26631 File 9-27-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM79-76-139 (New Mexico-18)]

18 CFR Part 271

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that the Basin-Dakota Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on November 8, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on October 7, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

Issued: September 22, 1982.

I. Background

On August 26, 1982, the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Basin-Dakota Formation located in San Juan County, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Basin-Dakota Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Basin-Dakota Formation is defined as that interval including the Graneros, Dakota, and Morrison Formations found below a depth of 7,251 feet as indicated on the Induction-Electrical and Gamma Ray log from the El Paso Natural Gas Gartner No. 9 well. The average depth to the top of the Basin-Dakota is 7,575 feet. The gross thickness of the formation varies from 250 to 300 feet.

New Mexico Order No. R-1670-V, issued on May 22, 1979, authorized infill drilling in the Basin-Dakota Gas Pool. Accordingly, certain portions of the recommended area may be subject to exclusion pursuant to § 271.703(c)(2)(i)(D) of the Commission's regulations.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7608 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Basin-Dakota Formation, as described in delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., , Washington D.C. 20426, on or before November 8, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–139 (New Mexico–18), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than October 7, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Title 18, Code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding new subparagraph (139) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(109) through (138) [Reserved]

(139) *Basin-Dakota Formation in New Mexico.* RM79–76–139 (New Mexico–18).

(i) *Delineation of formation.* The Basin-Dakota Formation is located in San Juan County, New Mexico, in Township 32 North, Range 7 West, Sections 7, 8, 9, 16 through 21, and 25 through 36; Township 32 North, Range 8 West, Sections 7 through 36; Township 32 North, Range 9 West, Sections 7 through 36; Township 31 North, Range 8 West, Sections 1 through 31, and 33 through 36; Township 31 North, Range 9 West, Sections 1 through 26, and 29 through 36; Township 30 North, Range 8 West, Sections 1, 2, 6 through 34, and 36; Township 30 North, Range 9 West, Sections 1 through 30, 35 and 36; Township 30 North, Range 10 West, Sections 1 through 18 and 24; Township 29 North, Range 8 West, Sections 1 through 6; Township 29 North, Range 9 West, Sections 1 and 2, NMPM.

(ii) *Depth.* The Basin-Dakota Formation is defined as that interval including the Graneros, Dakota, and Morrison Formations found below a depth of 7,251 feet as indicated on the Induction-Electrical and Gamma Ray log from the El Paso Natural Gas Gartner No. 9 well. The average depth to the top of the Basin-Dakota Formation is 7,575 feet. Gross thickness of the Basin-Dakota Formation ranges from 250 to 300 feet.

[FR Doc. 82–26545 Filed 9–27–82; 8:45 am]

BILLING CODE 6717–01–M

---

18 CFR Part 271

[Docket No. RM79–76–136 (Utah–5)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendations of the State of Utah that the Dakota Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on November 8, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on October 7, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

Issued: September 22, 1982.

I. Background

On August 18, 1982, the State of Utah Board of Oil, Gas and Mining (Utah) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Dakota Formation located in Grand and Uintah Counties, Utah, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Utah's recommendation that the Dakota Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with Utah's recommendation. Utah's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation underlies certain lands of Grand and Uintah Counties, Utah. The

recommended area contains 1,062,400 acres located in the general area of Townships 11 South through 18 South and Ranges 17 through 26 East, SLM. The Formation is bordered on the east by the Colorado state line and on the west by the Green River.

The vertical limits of the Dakota Formation are defined by the Dakota Silt Formation above and the Morrison Formation below. The average depth to the top of the productive zone is 7,137 feet and the average thickness of the Dakota Formation is approximately 200 feet.

III. Discussion of Recommendation

Utah claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. TGF-104 convened by Utah on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Utah asserts that based on averaging techniques and on cumulative frequency distributions of well production data, 92.5% of wells drilled in the Dakota Formation would not be expected to exceed the maximum allowable production rate set out in the regulations. The Minerals Management Service asserts that based on a review of all the available data submitted by the applicant and information in their own files that the straight arithmetic average of pre-stimulated, stabilized flow rates of wells completed for production in the recommended formation did meet the guidelines. Preliminary Commission staff analysis of the data submitted by Utah indicates that the recommended formation may not satisfy the production guidelines set forth in § 271.703(c)(i)(B) when the straight arithmetic average methodology is used. Comments are specifically requested on the use of averaging methodologies other than the arithmetic average method.

Utah further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Utah that the Dakota Formation, as described and delineated in Utah's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC. 20426, on or before November 8, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-136 (Utah-5), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than October 7, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Utah's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICE

Section 271.703(d) is revised by adding new subparagraph (136) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(109) through (135) [Reserved]

(136) *Dakota Formation in Utah.* RM79-136 (Utah-5).

(i) *Delineation of formation.* The Dakota Formation is located in Grand and Uintah Counties, Utah, and is in the general area of Townships 11 South through 18 South and Ranges 17 East through 26 East, SLM. The formation is bordered on the east by the Colorado state line and on the west by the Green River.

(ii) *Depth.* The Dakota Formation's vertical limits are defined by the Dakota Silt Formation above and the Morrison Formation below. The average thickness throughout the proposed area is approximately 200 feet and the average depth to the top of the Dakota Formation is 7,137 feet.

[FR Doc. 82-26546 Filed 9-27-82; 8:45 a.m.]

BILLING CODE 6717-01-M

---

18 CFR Part 271

[Docket No. RM79-76-137 (Utah-6)

High-Cost Gas Produced from Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This

Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Utah that the Morrison Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on November 8, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on October 7, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616

Issued September 22, 1982.

I. Background

On August 18, 1982, the State of Utah Board of Oil, Gas and Mining (Utah) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Morrison Formation located in Grand and Uintah Counties, Utah, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Utah's recommendation that the Morrison Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with Utah's recommendation. Utah's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation underlines certain lands of Grand and Uintah Counties, Utah. The recommended area contains 1,062,400 acres located in the general areas of Townships 11 South through 18 South and Ranges 17 through 26 East, SLM. The formation is bordered on the east by the Colorado state line and on the West by the Green River.

The vertical limits of the Morrison Formation are defined by the Dakota Formation above and Jurassic Entrada Formation below. The average depth to the top of the productive zone is 7,349 feet. The average thickness of the Morrison Formation is approximately 600 feet.

III. Discussion of Recommendation

Utah claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. TGF–104 convened by Utah on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Utah asserts that based on averaging techniques and on cumulative frequency distributions of well production data, 100% of wells drilled in the Morrison Formation would not be expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B). Preliminary Commission staff analysis also indicates that the expected production rate for wells in the recommended formation satisfies the guidelines set out in § 271.703(c)(2)(i)(B) when the arithmetic average methodology is used.

Utah further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Utah that the Morrison Formation, as described and delineated in Utah's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before November 8, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–137 (Utah–6), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than October 7, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Utah's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding new subparagraph (137) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(109) through (136) [Reserved]

(137) *Morrison Formation in Utah.* RM79–76–137 (Utah–6).

(i) *Delineation of formation.* The Morrison Formation is located in Grand and Uintah Counties, Utah, and is in the general area of Townships 11 South through 18 South and Ranges 17 East through 26 East, SLM. The formation is bordered on the east by the Colorado state line and on the west by the Green River.

(ii) *Depth.* The Morrison Formation's vertical limits are defined by the Dakota Formation above and the Jurassic Entrada Formation below. The average thickness throughout the proposed area is 600 feet and the average depth to the

top of the Morrison Formation is 7,349 feet.

[FR Doc. 82-26547 Filed 9-27-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulations No. 4]

Federal Old-Age, Survivors, and Disability Insurance; Withdrawal of Applications of Deceased Claimants

AGENCY: Social Security Administration, HHS.

ACTION: Proposed Rule.

SUMMARY: The Social Security Administration proposes to amend its regulations on withdrawal of applications for benefits. The applications affected are those for old-age benefits that would be reduced because of the worker's age. Currently, even if the worker dies before we take action to pay the first of the reduced old-age benefits for which he or she applied, the widow's or widower's benefits must be reduced because the worker was technically entitled to reduced benefits. The revised regulations would remedy this by permitting the person eligible for widow's or widowers benefits based on the worker's earnings to withdraw the worker's application if the worker died before we certified his or her benefit entitlement to the Treasury Department for payment.

DATES: Your comments will be considered if we receive them no later than November 29, 1982.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3-A-3 Operations Building, 6401 Security Boulevard, Balitmore, Maryland 21235, between 8:00 am and 4:30 pm on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Lawrence V. Dudar, 3-B-4 Operations Building, 6401 Security Boulevard, Balitomre, Maryland 21235 (301) 594-6629.

SUPPLEMENTARY INFORMATION:

Background

Our existing regulations permit one person, under certain conditions, to withdraw another person's application for social security benefits. One existing requirement is that the person whose application is being withdrawn must be alive at the time of withdrawal.

This was a reasonable requirement until Congress amended the law to require reduction of widow's or widower's benefits if the worker was ever entitled to old-age benefits that were reduced because of his or her age (under 65). Since then there have been instances in which the worker died after applying for reduced benefits, and thus the widow's or widower's benefits were subject to reduction, even though the worker died before we certified his or her benefit entitlement to the Treasury Department for payment of any benefits whatsoever. This is because the worker is technically "entitled" to benefits as soon as he or she meets all the requirements for benefits and has filed an application for those benefits.

We do not believe it was the intent of Congress to reduce the widow's or widower's benefits where the worker met the technical requirements for entitlement, including the filing of an application, but then died before we actually certified his or her benefit entitlement to the Treasury Department for payment.

Proposed Change

There is no statutory provision governing withdrawal of an application for benefits. Accordingly, it is left wholly to the discretion of the Secretary of Health and Human Services to establish criteria for a valid withdrawal of an application. Since under the current regulation the existence of a valid application after the death of a worker can harm the survivors, we propose to allow the withdrawal of the application after the worker's death, but only if the worker died before we certified his or her benefit entitlement to the Treasury Department for payment. We would permit the withdrawal by the person eligible for widow's or widower's benefits or by someone else on his or her behalf, with the consent of any other individual who would lose benefits as a result of the withdrawal.

Regulatory Procedures

Executive Order 12291—These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required. We estimate that by the end of the fifth year from the time that this regulation is first implemented, the Federal cost for the payment of the full amount of benefits to survivors affected by the regulation would be approximately $3 million. Any resulting administrative costs would be negligible.

Paperwork Reduction Act—These regulations impose no new reporting/recordkeeping requirements requiring OMB clearance. Our form SSA-521, Request for Withdrawal of Application, has OMB approval under control number 0960-0015.

Regulatory Flexibility Act—We certify that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

These regulations are issued under the authority of sections 202(j), 205 and 1102 of the Social Security Act, as amended (49 Stat. 623, as amended; 53 Stat. 1362, as amended; 49 Stat. 647, as amended; 42 U.S.C. 402(j), 405, and 1302).

List of subjects in 20 CFR Part 404

Administrative practice and procedure; Death benefits; Disabled; Old-Age, Survivors and Disability Insurance.

Dated: July 21, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: September 8, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

For the reasons stated in the preamble, it is proposed to amend Part 404 of Title 20 of the Code of Federal Regulations as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-).

In § 404.640, paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added, to read as follows:

§ 404.640 Withdrawal of an application.

* * * * *

(c) *Request for withdrawal filed after the claimant's death.* An application may be withdrawn after the claimant's death, regardless of whether we have made a determination on it, if—

(1) The claimant's application was for old-age benefits that would be reduced because of his or her age;

(2) The claimant died before we certified his or her benefit entitlement to the Treasury Department for payment;

(3) A written request for withdrawal is filed at a place described in § 404.614 by or for the person eligible for widow's or widower's benefits based on the claimant's earnings; and

(4) The conditions in paragraphs (b)(2) and (3) of this section are met.

* * * * *

[FR Doc. 82-26651 Filed 9-27-82; 8:45 am]
BILLING CODE 4190-01-M

Food and Drug Administration

21 CFR Part 888

[Docket No. 78N-2830]

Orthopedic Devices; General Provisions and Classification of 77 Devices

Correction

In FR Doc. 82-17576, appearing on page 29052, on Friday, July 2, 1982, make the following corrections:

1. On page 29130, in the third column, in paragraph 448., in the fifth line "12:89-144" should be corrected to read "12:89-114".

2. On page 29131, in the second column, in paragraph 479. in the fifth line "345:357" should be corrected to read "345-357".

3. On page 29132, in the second column, before the line that begins "888.4150" insert "**Subpart E—Orthopedic Surgery Devices**".

4. On page 29134, in the third column, § 888.3220 should read "*Finger joint metal/polymer constrained prosthesis.*"

5. On page 29137, in the second column, § 888.3550(a), in the ninth line from the top "acrew" should read "screw".

6. On page 29138, in the third column, in § 888.3790(b), in the first line "Class II" should be corrected to read "Class III".

BILLING CODE 1505-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2646

Definition of "Building and Construction Industry"

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This advance notice of proposed rulemaking presents for public comment possible options for defining "building and construction industry" and related terms, for the purposes of the special withdrawal rules for that industry contained in the Employee Retirement Income Security Act of 1974, as amended. The definitions for these otherwise undefined terms may be needed to provide guidance to plan sponsors and employers. The effect of this notice is to obtain the views of the public on whether a regulation is needed and on what it might contain.

DATE: Comments must be received on or before November 29, 1982.

ADDRESS: Comments should be addressed to the Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Introduction

Under section 4203(a) of Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act, (ERISA), a complete withdrawal from a multiemployer pension plan is generally defined as the permanent cessation of an employer's obligation to contribute under the plan, or the permanent cessation of all covered operations under the plan. Under section 4205, partial withdrawal generally occurs when an employer reduces covered operations by seventy percent, or removes a continuing facility or bargaining unit from the plan while continuing to do the previously covered work at the facility or in the area. Thus, the general rules on complete and partial withdrawal identify those events that normally result in a loss to the plan's contribution base.

However, Congress recognized that cessation of the obligation to contribute by an employer in certain industries does not normally weaken the plan's contribution base. The building and construction industry was identified as one industry in which withdrawals typically do not adversely affect the plan unless an employer continues to do the same work in the same area. In this industry, work is generally on a project-by-project basis, an employer's covered employment may fluctuate drastically, and when a project ends an employer's workers will normally remain in the labor pool available for employment by other contributing employers. Because of these factors, Congress established special withdrawal rules for the construction industry. (Throughout this notice, the terms "building and construction industry" and "construction industry" are used interchangeably.)

The special construction rule applies to a construction employer who is participating in a construction plan. A construction plan is defined as a plan that primarily covers employees in the building and construction industry; an employer is a construction employer if substantially all of the employees for whom the employer has an obligation to contribute under the plan work in the building and construction industry (ERISA section 4203(b)(1)). (For non-construction plans, the special construction rule applies only if a plan amendment is adopted which extends the rule to construction employers within the plan (section 4203(b)(1)(B)(ii).)

Under ERISA section 4203(b)(2), a complete withdrawal occurs only if a construction industry employer ceases to have an obligation to contribute under the plan, and the employer either continues to perform previously covered work in the area of the collective bargaining agreement or resumes such work within five years without renewing the obligation to contribute at the time of resumption. Under section 4208(d)(1), a construction industry employer is liable for a partial withdrawal "only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required".

ERISA does not contain definitions of the critical terms in section 4203(b): "building and construction industry",[1] "substantially all", and "primarily". The purpose of this advance notice of proposed rulemaking is to solicit public comment on whether PBGC should attempt to define these terms by regulation, and, if so, on the possible options for those definitions. After reviewing the comments received pursuant to this notice, PBGC may issue

[1] For legislative history, see Senate Labor and Human Resources Committee, 96th Cong., 2d. Sess., The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Consideration 14 (Comm. print, April 1980); and H.R. Rep. No. 869, Pt. I, 96th Cong., 2d Sess. 76 (1980).

a proposed regulation containing definitions of some or all of those terms.

Need for Definitions

Many construction contractors contribute to plans in which all covered employers are engaged in construction and in which all participants work only on the site of construction projects. In these cases, it is clear that the building and construction industry special withdrawal rules apply. However, some pension plans are mixed plans that cover both construction and non-construction employers. Some plans also include employers who are involved in both on-site construction work and off-site activities. Because of these variations, without a definition of "building and construction industry", plan sponsors may have difficulty determining—

(1) whether their plans are construction plans;

(2) whether an individual employer is a construction employer; and

(3) when a plan or employer, once so classified, ceases to be eligible for the special rules.

Therefore it may be desirable for PBGC to provide some guidance in this area. The first question, however, is whether PBGC should attempt to develop its own definition of "building and construction" or whether it should, instead, rely on definitions of the term that already exist under other laws.

Definition of "Construction Industry" Under Other Laws

Two Federal labor laws, the National Labor Relations Act, as amended (NLRA), and the Davis-Bacon Act, have specific provisions concerning the building and construction industry. In determining the appropriate scope of "construction" work, both laws emphasize the importance of work actually done at the construction site.

For employers in the building and construction industry, NLRA section 8(e) provides an exception for on-site work from the general prohibition against "hot cargo" clauses, and section 8(f) similarly provides an exception from rules on "prehire" agreements (29 U.S.C. 158 (e) and (f)). These exceptions recognize that, due to the casual and intermittent nature of employment, the hiring practices and collective bargaining relationships in the construction industry are unlike those in many other industries.[2]

Although the NLRA contains no definition of "construction industry", case law does provide some guidance. Under NLRA section 8(f), "building and construction industry" has been interpreted to exclude employers who manufacture and assemble products which are subsequently installed by the employees of *other* employers at the construction site.[3] In a section 8(f) case, the NLRB underscored the importance of actual on-site work to the definition:

"* * * the so-called building and construction concept subsumes *the provision of labor whereby material and constituent parts may be combined on the building site* to form, make, or build a structure."[4]

The Davis-Bacon Act, which covers federally financed and assisted construction projects and requires that construction contractors pay prevailing wages and fringe benefits, also does not define building and construction work. However the Department of Labor, which administers the Davis-Bacon Act, has issued by regulation a comprehensive definition of construction work and related terms. In relevant part, the regulation provides: "The terms 'building' or 'work' generally include construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include without limitation, buildings, structures, and improvements of all types * * * The manufacture or furnishing of materials, articles, supplies, or equipment * * * is not a 'building' or 'work' within the meaning of the regulations in this part *unless conducted in connection with and at the site* of such a building or work * * *".

"The terms 'construction', 'prosecution', 'completion', or 'repair' mean all types of work *done on a particular building or work at the site* thereof * * * including without limitation, altering, remodeling, painting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies or equipment *on the site of the building or work* * * * in the construction or development of the project by persons employed by the contractor or subcontractor * * *".[5] (Emphasis supplied.)

The Department of Labor has also issued an administrative opinion defining the site of work. Under this opinion, the "site of work" is the "physical place" where the "construction * * * will remain when work on it has been completed."[6] The size of the site is usually limited, but in geographically large projects, such as airports or dams, the site may include "(f)abrication plants, 'mobile factories', batch plants, borrow pits, job headquarters, tool yards, etc. * * * provided they are dedicated exclusively or nearly so to performance on the contract and are so located in proximity to the actual construction location that it would be reasonable to include them."[7]

That opinion also indicates that the Davis-Bacon Act wage rate decisions apply only to the contractor's or subcontractor's employees that perform work on the site of the construction project. However, employees who normally work off-site at, for example, a factory or tool yard, but who go to the site to perform activities pursuant to the on-site contract, are covered by the Davis-Bacon Act for the actual time worked on-site.[8]

The Standard Industrial Classification (SIC), which is published by the Office of Management and Budget and is widely used by government and the private sector to classify various types of economic activities, provides additional guidance on the meaning of "construction industry".[9] Under the SIC, the term "construction" includes "new work, additions, alterations and repairs."[10] Three broad types of construction activity are identified under the SIC scheme: (1) building construction by general contractors or operative builders; (2) other construction (*e.g.* streets, bridges, and sewers) by general contractors; and (3) construction by special trade contractors, which includes activities such as plumbing, painting, electrical work and carpentry. However, the installation of prefabricated building equipment and materials, which is "performed as a service incidental to sale" by employees of the manufacturing company, is excluded from the construction classification, and instead classified within the appropriate manufacturing or trade division.[11] Also excluded from the definition is on-site work by a firm which is not primarily engaged in construction activity, but which performs construction work for its own account and with its own employees ("force account construction").[12]

---

[2] *Congressional Record*, p. S5767, Apr. 21, 1959.

[3] *NLRB v. W. L. Rives Co.*, 328 F. 2d, 464, 469 (5 Cir. 1964).

[4] *Carpet, Linoleum and Soft Tile Local 1247 (Indio Paint & Rug Center)*, 156 NLRB 951, 959 (1966) (emphasis in orig.).

[5] 29 CFR 5.2 (f) and (g).

[6] Wage and Hour Man. (BNA), 99:1221.

[7] *Id.*

[8] *Id.*

[9] Office of Management and Budget, *Standard Industrial Classification Manual* 10 (1972).

[10] *Id.*, at 45. The Construction Industry Stabilization Committee, which administered wage and price controls for construction that were in effect between March 29, 1971 and May 1, 1974, used the SIC definition of construction to determine which activities were covered under its program.

[11] *Id.*, at 46.

[12] *Id.*

Thus, the SIC definition of construction, like that under the Davis-Bacon Act and the NLRA, focuses on work performed by construction employers on the site of a construction project.

PBGC could adopt a regulation providing that the term "construction industry" would have the same meaning under ERISA as it does under, for example, the Davis-Bacon Act. That approach would have the advantage of using a definition familiar to both government and industry. But is a definition which, in the example given, was developed for wage and hour determinations, wholly suitable for the purposes of the pension insurance system? In addition, if the ERISA definition were linked to that in another law, it would be subject to modification by other agencies and the courts without the involvement of the PBGC. Is that advisable?

On the other hand, PBGC could, after considering the existing definitions, develop its own definition for "construction industry".

Options for a PBGC Definition of Construction Industry

In developing an appropriate PBGC definition for "building and construction industry", three basic issues would need to be addressed—

—What is "construction" work?

—Should the definition be restricted to work actually performed at the site, or should it be broadened to include off-site work?

—If so, what kinds of off-site activities should be included, and under what circumstances?

How should construction work be defined, so as to distinguish it from other industries and other activities, such as manufacturing? In this regard, the previously discussed definitions under other laws provide useful guidance. It is clear under definitions that "construction" includes the actual on-site erection, alteration and repair of a structure, whether it be an office building, a highway, or a sewer system. However there is other work which is performed at the construction site, but not directly linked to the actual erection of a structure. For example, an on-site food concession presumably would not be considered construction. But what about the delivery of needed materials, or the on-site repair of construction machinery? How should the definition treat those kinds of related, on-site support services?

Once the nature of the work is determined, a second basic question involves whether and where to draw a line between on-site and off-site work. In accord with the Davis-Bacon Act, the definition could be limited only to construction work that is actually performed at the site of the project. By restricting the special withdrawal rules to work done on-site, this option may pose the least risk to the insurance system and may also minimize the need for *ad hoc* determinations by the PBGC. However, would this approach be likely to upset existing relationships between plans and employers who have traditionally viewed themselves as being in the construction industry? Moreover, it is appropriate for the definition to exclude activities of an employer that are closely related to its on-site work (*e.g.*, shop fabrication of materials to be installed at the project site) simply because they are not performed at the construction site?

The definition could be broadened to include off-site work to the extent that work supports and employer's on-site activities. For employers who are engaged in both on-site and off-site construction work, this approach would have the advantage of treating an employer's work as an integrated operation. There may also be benefits to plans, since employers with off-site as well as on-site operations may be more likely to join multiemployer plans or increase existing operations under this option, as compared to the first option.

However, broadening the definition to include certain off-site activities could result in added risk to plans and to the PBGC insurance system. Under that approach, the special withdrawal rules would apply, for example, to an employer's off-site fabrication activities when the resulting product is installed on-site by its employees. This might enable the employer to withdraw from the plan for its off-site work, while continuing to do that work in the area of the plan, without incurring liability for a partial withdrawal under section 4208(d). Or an employer could move its off-site work outside the jurisdiction of the collective bargaining agreement and continue to ship materials into the area of the plan for on-site installation (whether by its employees or by others) without incurring liability. Both situations could damage the plan's contribution base. These problems arise from including in the definition of construction, work that is essentially manufacturing in nature. Because this work need not be performed at a particular place, its removal could have the effect of diminishing work in the area of the plan.

Therefore if the definition is to include certain off-site work, PBGC may need to specify the kinds of work that are included, as well as other appropriate restrictions. For example, what requirements, if any, should the rule impose on the relationship between an employer's on-site and off-site work? In line with decisions under the NLRA, the definition could exclude off-site work where the resulting product was actually erected on-site by employees of a different employer. The rule could also require a particular mix of on-site compared to off-site work. Should these or any other requirements be imposed?

Finally, if certain off-site work is to be considered construction work, should the definition include an employer's off-site work when it is covered under a different plan than the employer's on-site work? A potential effect of such a rule could be that a plan, under which no on-site construction work is performed, would qualify as a construction plan. Is this a desirable result?

Tests for Eligibility

In order to be eligible for the special construction rule under ERISA section 4203(b)(1), the plan must "primarily" cover employees in the building and construction industry, and "substantially all" of the employees for whom an employer contributes under the plan must perform construction work.[13] While employers must meet the "substantially all" test in order to be covered by the special rules, a plan that does not "primarily" cover construction employees (and thus is not automatically covered by the special rules) may be amended to apply the special rules to only its qualified construction employers (section 4203(b)(1)(B)(ii). Neither "primarily" nor "substantially all" is defined in ERISA. Should the PBGC define these terms? If so, how should they be defined?

According to *Webster's New Collegiate Dictionary*, "primarily" means "for the most part" or "chiefly", suggesting that something stands in first rank of importance. *Webster's* defines "substantial" as "considerable in quantity" or "significantly large". Should PBGC follow this approach and adopt adjectival definitions of the terms? Would such definitions provide enough precision for purposes of

[13] The special withdrawal rule for the construction industry applies only to the employer's operations covered under a construction industry plan. That is, an employer that does a relatively small amount of construction work compared to its total operations would be, for the purposes of the special rule, a construction employer in a plan to which it contributed only for its construction employees. On the other hand, that same employer would not be a construction employer in another plan to which it contributed only for its nonconstruction operations.

determining the applicability of the construction rules? One effect of this approach would be that these terms would have different meanings in different plans. Is this desirable?

Another approach would be to use quantitative definitions. For example, "primarily" might be defined as "more than 50%", and "substantially all" as "at least 85%".[14] However, is it clear that "substantially all" means something greater than "primarily"? Also, if a quantitative definition is preferred, should a single number or a range of numbers be chosen?

Still a third option would be a combination of the adjectival and quantitative approaches. It can be argued that the terms "primarily" and "substantially all" are not directly comparable; that "primarily" refers to the character of a plan, while "substantially all" indicates a quantity, a numerical amount. Following this reasoning, a percentage test may be appropriate only for the "substantially all" requirement, with "primarily" defined in adjectival terms. Which of these general approaches is most desirable?

In addition, do these definitions need to specify the units of measurement for determining whether a plan and its contributing employers meet the "primarily" and "substantially all" requirements under ERISA section 4203(b)(1)? Various units for measuring construction work are available, including—

1. the percentage of employees performing construction work;
2. the number of hours of construction work done by employees; or
3. the share of total plan contributions attributable to construction work.

Should plans be given the flexibility to select any of the above options? Are there other units of measurement that should be considered?

The last issue in determining whether a plan and its contributing employers meet the section 4203(b)(1) requirements is the period of measurement. That is, must the plan and the employer meet the tests only at the time the issue is raised, *e.g.*, upon the employer's withdrawal, or should the tests take into account the characteristics of the plan and the employer over a longer period of time? For example, should it be necessary that a plan or employer meet the appropriate test for the current plan year and for a specified number of preceding plan years? A longer test period may mean greater stability and certainty for plans and employers. If a longer test period is used, should it be required that the test be met for every year in the test period or for just a certain number of years within the test period?

For an employer, eligibility for the special withdrawal rule is usually relevant only at the time of withdrawal from the plan. For a plan, however, there is a greater need to know on a continuing basis whether it qualifies for the special rule, because, among other reasons, plan status affects the allocation rule under ERISA section 4211 the plan is required to use.[15] Because of this, should PBGC provide that once a plan is classified as a building and construction industry plan, that status would continue until there is a fairly drastic change in plan composition? In other words, should the standards for determining that a plan is no longer a construction industry plan be different from the standards that qualify a plan as a construction plan?

Requests for Comments and Suggestions

PBGC invites comments on the issues discussed in this notice, including specific suggestions on how a regulation might address these issues.

List of Subjects in 29 CFR Part 2646

Employee benefit plans, Pensions, Pension insurance.

Issued at Washington, D.C. on this 21st day of September, 1982.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-26591 Filed 9-27-82; 8:45 am]

BILLING CODE 7708-01-M

[14] It is noted that for purposes of the special trucking industry rule under ERISA section 4203(d), the legislative history of the Multiemployer Act indicates that "substantially all" means "at least 85%". *Congressional Record*, p. H7900, August 26, 1980 (statement by Representative Frank Thompson).

[15] Under section 4211(c)(1), "a plan which primarily covers employees in the building and construction industry" must use the presumptive rule in paragraph (b) of that section for allocating unfunded vested benefits.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[WH-FRL 2161-8]

Construction Grants Program; Policies and Procedures; Proposed Rule

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule, with request for comments.

SUMMARY: The proposed regulation establishes policies and procedures for delegating and overseeing administration of the construction grants program to the States under Section 205(g) of the Clean Water Act, as amended. The delegation agreement is a precondition for a construction management assistance grant under Section 205(g). Grant administration requirements and procedures are contained in the proposed Subpart A of this part. This proposed rule, in conjunction with Subpart A, will revise and replace the current Section 205(g) regulation (Subpart F) contained in this subpart.

DATE: Comments must be received by October 28, 1982.

ADDRESS: Please submit your comments in duplicate to: Central Docket Section (A-130), Docket No. [G-82-04], Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments received may be inspected at the Central Docket Section, West Tower Lobby, Gallery Room 1, between 8:15 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Carl Reeverts, Office of Water Program Operations (WH-546), Environmental Protection Agency, Washington, D.C. 20460, (202) 382-5839.

SUPPLEMENTARY INFORMATION: Since the enactment of Section 205(g) of the Clean Water Act in December, 1977, authority to administer the construction grant program has been delegated to 45 States and Territories through the execution of delegation agreements. By the end of fiscal year 1982, States will have assumed over 60 percent of the direct program workload previously undertaken at the Federal level. Thus, the initial delegation program is largely in place.

The requirements for executing and amending State delegation agreements, although streamlined, are basically unchanged and will not affect existing agreements. Changes are limited to removal of outdated and unnecessary provisions, language changes that encourage full State delegation, and the broadening of EPA and State responsibilities related to oversight, evaluation, and planning under delegation.

The proposed regulation clearly reflects the Agency policy to deemphasize procedural review and oversight in favor of overall program management. EPA retains its responsibility for adherence to Federal requirements and progress toward national goals and objectives, but will not intrude on the States' prerogative under delegation to manage the program. Although EPA will continue to

make final determinations for selected non-delegable requirements as required by statute, delegable activities and preliminary decisions for all activities will be the responsibility of the States under full delegation. EPA oversight will be limited to key areas of national and regional concern and will focus on program effectiveness in achieving legislative and policy objectives. In support of the regulation, EPA will propose delegation guidance for Regional and State use in developing delegation management approaches.

Summary of Major Changes

The following table shows the relationship between the current regulation and this revision. Also shown are the portions of the current regulation that are being transferred and included in the proposed Subpart A and other regulations.

Current subpart F	Current title	Revision	
		Proposed subpart J	Proposed other
§ 35.1000	Purpose and scope	35.3000	35.100, 35.300.
35.1005	Policy	35.3005	
35.1010	Applicaiton for grant		35.140, Part 30.
35.1015	Eligibility for funding		35.300.
35.1016	Limitations on award		35.310.
35.1020	Grant amount and award		35.115, 35.310.
35.1025	Payment		Part 30.
35.1030	Delegation agreement	35.3010	35.130, 35.310.
35.1030-1	Scope of delegation agreement	35.3015	
35.1030-2	Certification procedures	35.3020	
35.1030-3	Limitation on delegation	35.3015	
35.1030-4	Terms of delegation agreement	35.3010	
35.1030-5	Implementation of the delegation agreement	(1)	
35.1030-6	State assurance	35.3010	
35.1030-7	Determination of competence	35.3010	
35.1030-8	Amendments	35.3010	
35.1030-9	Right of review; appeal	35.3030	
35.1033	Public participation	35.3035	
35.1035	Adherence to budget estimates		Part 30.
35.1040	Program evaluation and reporting	35.3025	35.130, 35.150.
35.1045	Reduction in grant amount		35.150.
35.1050	Disputes	35.3030	Part 30.

[1] Deleted.

As the table illustrates, the proposed regulation retains (in modified form) only the program requirements for the delegation agreement process. All portions of the current Subpart F regulation related to administration of grants under Section 205(g) have been moved to the proposed Subpart A regulation, Financial Assistance for Continuing Environmental Programs (40 CFR Part 35, Subpart A), 47 FR 25912 (June 15, 1982), and to the proposed Part 30 regulation, General Regulation for Assistance Programs (40 CFR Part 30), 47 FR 26564 (June 18, 1982). References related to Section 205(g) reserves, obligations, and reallotments were deleted from the proposed regulation and are provided in detail in Subpart I, Grants for Construction of Treatment Works, 47 FR 20450 (May 12, 1982). These three regulations should be read together with this regulation to understand the substantive and administrative requirements governing the construction grant delegation program.

Delegation Policy

The proposed regulation broadens the delegation policy to include a stronger statement to assure full delegation of all project level activities, including delegation of preliminary determinations for non-delegable requirements (e.g., grant closeouts, payments, and environmental assessments). It also adds a reference to EPA oversight of State performance, based on results-oriented evaluation, to the policy statement. These changes are intended to strengthen State responsibility for all project level decisions, while States work with EPA to attain national program results. (§ 35.3005.)

Delegation Agreement

The proposed regulation consolidates several Subpart F sections and eliminates redundancies and outdated references. One section now contains all the requirements and contents of the initial delegation agreement and future revisions. The basic components of the delegation agreement remain in the regulation, but in a less detailed form. (§ 35.3010.)

Extent of Delegation

The proposed regulation simplifies, clarifies, and updates the scope and authority conveyed by the delegation agreement. The list of delegable activities in the current Subpart F regulation was eliminated and replaced by a general statement related to administering the construction grants program. Also, the explanation of the non-delegable activities was simplified and made less specific. (§ 35.3015.)

Certification Procedures

The proposed regulation revises the current subsection on procedures for certifying construction grant projects, but does not change the existing requirements. A new subsection is provided to specify the conditions which a delegated State must meet in order to have "sufficient authority" under delegation. A definition of "sufficient authority" was necessary to implement Section 219 of the Act (added by the 1981 amendments). Under Section 219, EPA is required to approve or disapprove an application for a construction grant within 45 days, if a State with sufficient authority under delegation certifies the project for award. States will have sufficient authority when they have assumed responsibility for all delegable pre-award requirements contained in the construction grant regulation (40 CFR Part 35, Subpart I, 47 FR 20450 (May 12, 1982)). A list of the specific requirements is included in this section. The definition is objective and non-discretionary and is based totally on the extent of delegation. (§ 35.3020.)

Oversight of State Performance

The proposed regulation in § 35.3025 broadens the scope of performance evaluation beyond that contained in the current § 35.1040 of Subpart F. The current regulation emphasizes compliance with the terms of the delegation agreement, particularly related to the procedures to be followed in carrying out each delegated function. (See § 35.1034–4(a)(7).) The proposed regulation links all oversight activities to a set of program and management objectives, and emphasizes performance in terms of an annual oversight program designed around achievement of priority objectives and results (called performance areas). The specific monitoring and evaluation activities may include any method of oversight, including procedural review as appropriate, but process-related activities should be sharply reduced as delegation reaches the advanced stage.

The development of an annual oversight program, as one of the terms of the delegation agreement (see § 35.3010(c)(7)), is a condition to receiving a construction management assistance grant under Section 205(g). The annual oversight program is the blueprint for the day-to-day monitoring

and evaluation of activities under delegation and is the vehicle that links the various oversight activities to achievement of program and management objectives. It supplements the delegation agreement on an annual basis to reflect the specific needs and requirements of the upcoming fiscal year.

All oversight activities, whether formal or informal, should be conducted with the understanding that the relationship between the Region and the State is that of a partnership. The two are working toward mutually agreed-upon program and management objectives. The purpose is to give feedback to all responsible entities to improve program performance. The oversight program will hold the delegated States accountable for performance against objectives and Agency priorities in the same manner in which Agency management is held accountable, while at the same time allowing considerable flexibility in terms of operating the program.

The proposed regulation does not prescribe what program and management objectives should be included in the oversight program or the specific monitoring and evaluation activities that should be undertaken to assess performance. Rather, it establishes oversight requirements in terms of a process, schedule, and progress against priority objectives. The principal aspects of the annual oversight program are threefold: identification of priority management and program objectives for the upcoming fiscal year, including development of performance measures; negotiation of an annual work plan for each performance area that includes both qualitative and quantitative commitments; and performing an annual on-site performance evaluation, covering performance areas identified in the oversight program. The key for its success is in the design of the oversight program, which ensures that all oversight activities are jointly agreed to between the Region and State, are known in advance, and can be integrated into the day-to-day management of delegation.

The work program required under Subpart A of this part, as a portion of the 205(g) grant application, contains many of the same elements as the annual oversight program (i.e., program commitments) and the delegation agreement (i.e., staffing, delegation schedule, and cost estimates). It is very important that the grant and program process be integrated to avoid duplication of effort. It was agreed in the drafting of the Subpart A and Subpart J regulations (under Part 35) that the delegation agreement and the oversight program would be broader in scope than the grant application and likely to precede the grant application in the planning process. Therefore, the results of the planning under the oversight program (e.g., the priority objectives and negotiated workplan) should be referenced in the 205(g) grant application. At no time should the outputs required under the grant work program be beyond the scope of the negotiated commitments in the oversight program.

Annual guidance on national priorities, performance areas, and resource assumptions for developing the oversight program will be issued each February as part of the Office of Water Operating Guidance and Accountability System. This should provide sufficient time for all Regions and States to develop their annual oversight program and work plan before the beginning of the operating year. (§ 35.3025.)

Review of State Decisions

The proposed regulation strengthens the role of the States under delegation by requiring a grantee or citizen to request the State to review its decision first, before contacting EPA. This emphasizes to all parties the responsibility of the State in project level decisions. It is intended to allow resolution of most issues without EPA involvement. It is not intended to require the State to establish any formal process for resolving disputes. However, the State must set down the reasons for its decision within a reasonable time after the request for review in order for the Regional Administrator to have a record for his review of the disputed action on omission. Failure of the State to address the disputed action or omission in writing in a timely fashion will not preclude Regional Administrator review. This section will not apply to State agency decisions concerning use of State funds for the construction grant program or for any State program managed by the State agency. (§ 35.3030.)

Public Participation

The public participation requirements were streamlined and some of the provisions in the current Subpart F regulation were eliminated. The requirements in the current regulation for States to provide resources to oversee public participation and for a public meeting or workshop to be held, in conjunction with EPA's annual review of State performance under delegation, were removed. The proposed regulation requires EPA and the State to consult informally with interested or affected groups and citizens when developing or amending a delegation agreement. A public meeting rather than the current, more formal public hearing, will be held only if the Regional Administrator or the State agency determines that significant interest exists. This regulation is consistent with the current Part 25 regulation covering public participation (40 CFR Part 25), which provides the minimum requirements for appropriately involving the public in construction grants program delegation. (§ 35.3035.)

Regulation Development

Under Executive Order 12291, EPA is required to determine if this is a major rule. EPA has determined that this is not a major rule. This rule will not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individuals, industries, and Federal, State, or local government agencies. Additionally, it will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 USC 601). The rule was submitted to the OMB for review as required in E.O 12291.

The reporting provisions that are included in this proposed rule are modeled on the current requirements, which were submitted to and approved by OMB under Section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The approved information collection requests cover the terms of the mutually negotiated delegation agreements, the functional schedules which indicate when States begin performing specific activities, and State reporting of program performance. Associated records are kept by the States as a standard management practice. Any final rule will include an explanation of how the reporting requirements reflect comments from OMB and the public.

(Catalog of Federal Domestic Assistance as number 66.438—Construction Management Assistance Grants)

List of Subjects in 40 CFR Part 35

Air pollution control, Grant programs—environmental protection, Indians, Pesticides and Pests, reporting and recordkeeping requirements, waste treatment and disposal, water pollution control.

Dated: September 21, 1982.

Anne M. Gorsuch,

Administrator.

For the reasons set forth in the preamble, EPA is proposing to amend Part 35 of Title 40, by removing Subpart F and adding a new Subpart J to read as follows:

PART 35—STATE AND LOCAL ASSISTANCE

* * * * *

Subpart J—Construction Grants Program Delegation to States

Sec.

35.3000 Purpose.
35.3005 Policy.
35.3010 Delegation agreement.
35.3015 Extent of delegation.
35.3020 Certification procedures.
35.3025 Oversight of State performance under delegation.
35.3030 Right of review of State decisions.
35.3035 Public participation.

Authority: Sec. 205(g) of the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*

Subpart J—Construction Grants Program Delegation to States

§ 35.000 Purpose.

This regulation establishes policies and procedures for the development, management, and EPA oversight of State administration of the construction grants program under Section 205(g) of the Clean Water Act, as amended. The delegation agreement between EPA and the State is a precondition for a construction management assistance grant under Section 205(g). Program requirements for grants authorized by Section 205(g) for activities under Sections 402, 404, and 208(b)(4) are provided in Part 130. Administration of all Section 205(g) grants follows the procedures established in Subpart A of this part.

§ 35.3005 Policy.

(a) EPA's policy is to delegate management of the wastewater treatment construction grant program to the maximum extent possible consistent with the objectives of the Act, prudent fiscal management, and EPA's overall national responsibility for the program. EPA encourages States to undertake all project level activities, including preliminary determinations for non-delegable requirements. The objective of delegation is to eliminate duplication of Federal and State effort in the management of the construction grant program, to increase State participation in the construction grant program, and to improve operating efficiency.

(b) Program delegation is to be accomplished through a formal delegation agreement between the Regional Administrator and the State. The delegation agreement will specify the functions which the State will perform and procedures for State certification to EPA.

(c) EPA will oversee the performance of the State under delegation to ensure that progress is being made toward meeting the construction grant program objectives and that State is continuing to employ administrative, fiscal, and program controls to guard against fraud, misuse, and mismanagement of public funds. Oversight will also include review of the State management process to ensure it is efficient, effective, and assures timely State reviews.

§ 35.3010 Delegation agreement.

(a) Before execution of the delegation agreement, the Regional Administrator must determine that the unit of the State agency designated to implement the agreement is capable of carrying out the delegated functions. The Regional Administrator will evaluate all aspects of the unit which directly affect the State's capability to implement the agreement.

(b) In the delegation agreement, the State agency will assure the Regional Administrator that it will execute its responsibilities under the delegation agreement in conformance with all applicable Federal laws and regulations.

(c) The delegation agreement will:

(1) Designate the organizational unit within the State responsible for the implementation of the delegation agreement;

(2) List the functions delegated and functions to be delegated, with a schedule for their assumption by the State;

(3) Identify procedures to be followed and records to be kept by the State and EPA in carrying out each delegated function;

(4) Identify the staffing, hiring, training, and funding necessary to carry out the delegated functions;

(5) Estimate program costs by year for the term of the delegation agreement;

(6) Establish an accounting and audit process, acceptable to the Regional Administrator, to identify and relate State costs to delegated functions; and

(7) Identify the form and content of the program for EPA oversight of State performance consistent with the requirements in § 35.3025 of this Subpart, including the frequency, method, and extent of Regional monitoring and evaluation.

(d) The term of the delegation agreement shall generally be 5 years. However, as subsequent construction management assistance is awarded, the term may be extended to maintain the 5 year period.

(e) The delegation agreement will be revised, as necessary, to reflect significant program or procedural changes, as determined jointly by the Regional Administrator and State agency.

§ 35.3015 Extent of delegation.

(a) Except as provided in paragraph (c) of this section, the Regional Administrator may delegate to the State agency authority to review and certify all construction grant documents required before and after grant award and to perform all construction grant review and management activities necessary to administer the construction grants program.

(b) The Regional Administrator may also delegate to the State agency the authority to act as the manager of waste treatment construction grant projects for small communities. In this capacity, the State agency may serve as the community contracting agent. The State agency may enter into an agreement with another organization within the State capable of performing the service. The terms of the agreement must be approved by the Regional Administrator before its execution.

(c) The Regional Administrator shall retain overall responsibility and exercise direct authority for the construction grant program for the following:

(1) Construction grant assistance awards, grant amendments, and payments;

(2) Projects where an overriding Federal interest requires greater Federal interest or participation;

(3) Final determinations under Federal statutes and Executive Orders (e.g., the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, Title VI of the Civil Rights Act of 1964, 42 U.S.C. 20000d *et seq.*), other than Sections 201, 203, 204, and 212 of the Clean Water Act;

(4) Final resolution of construction grant audit exceptions; and

(5) Final procurement protest appeal determinations under Part 33, Subpart G, of this subchapter.

§ 35.3020 Certification procedures.

(a) The State will furnish a written certification to the Regional Administrator for each construction grant project application submitted to EPA for award. The certification must state that all Federal requirements, within the scope of authority delegated to the State under the delegation agreement, have been met. This

certification must be supported by documentation specified in the delegation agreement. The documentation must be made available to the Regional Administrator upon request.

(b) States with sufficient authority under Section 219 of the Act to review applications need forward only the EPA Form 5700–32 application with the certification. Sufficient authority exists when States have assumed responsibility under delegation for applicant compliance with all delegable pre-award requirements, as provided for in the following sections of Subpart I of this part: § 35.2030, Facilities planning; § 35.2040(a) and (b), Grant application; § 35.2042, Review of grant applications; and §§ 35.2100, Limitations on award, through and including 35.2127, except for § 35.2101, Advanced treatment reviews for projects valued over $3 Million, § 35.2112, Marine waiver discharge applicants, and § 35.2113, Environmental review (as it applies to final decisions under the National Environmental Policy Act).

§ 35.3025 Oversight of State performance under delegation.

The Regional Administrator will oversee the performance of the State under delegation on a continuing basis, under the annual oversight program developed as a supplement to the delegation agreement at the beginning of each planning year. (§ 35.3010(c)(7)). The purpose of the oversight program is to ensure that both the delegated State and EPA efficiently and effectively execute the fiscal and program responsibilities under the Clean Water Act and related legislation. It does this by facilitating improved State and EPA administration of the program through program monitoring, evaluation, and feedback consistent with EPA and State roles under delegation. The oversight program will include the following components:

(a) *Program objectives and annual performance areas.* The foundation of the oversight program is a list of program and management objectives that describe what results are to be achieved in the program for the State, recognizing the national legislation and unique State requirements. Annually, the priority objectives, or performance areas, for the planning year must be identified and agreed to, through extensive collaboration among the State, the Region, and the National program. The basis for all oversight activities should be this set of agreed-upon multiyear objectives, and the oversight program is to provide the linkage between the objectives and the activities.

(1) For each performance area, the oversight program should specify key measures of performance (both quantitative and qualitative) and enumerate the specific monitoring and evaluation activities and methods to be performed during the operating year to assess performance against the objective.

(2) State oversight programs must include at a minimum the performance areas identified as priority objectives by the Administrator on an annual basis.

(3) The monitoring and evaluation activities in the oversight program should be appropriate to the delegation situation, reflecting phase of delegation, feedback to performance, and other circumstances unique to the Region and State. Oversight activities will shift toward program and performance monitoring and away from procedural reviews as delegation proceeds.

(b) *Annual work plan.* Annually, the Region and delegated State will negotiate a plan for each performance area for the succeeding year, to include expected outputs and program results. The State will manage against this work plan and report on progress in accordance with the annual oversight program and the delegation agreement. EPA will use the work plan to monitor and evaluate the program.

(c) *Annaul on-site performance evaluation.* Review and evaluation of the program will occur at least annually, and cover at a minimum performance against the program and management performance areas identified in the oversight program and the commitments agreed to in the work plan. The evaluation will cover performance of both the EPA and the State in these performance areas. Upon completion of the evaluation, the delegation agreement may be revised to reflect changes resulting from the evaluation.

§ 35.3030 Right of review of State decisions.

(a) Any construction grant applicant, recipient, or interested citizen who has been adversely affected by a State's action or omission must first request review by the State. After the State has made its determination, the adversely affected party may request the Regional Administrator to review the State agency's decision. The State must provide, in writing, within a reasonable time, the basis for its decision regarding the disputed action or omission. A Regional Administrator's decision is final unless appealed in accordance with Part 30 of this subchapter. A State's failure to address the disputed action or omission in a timely fashion will not preclude Regional Administrator review.

(b) Requests for Regional Administrator review must be in writing, adequately state the basis for the request, and include a copy of any written State determination of the review request. The request must be received by the Regional Administrator within 30 days after the State determination of the review request has been revieved by the adversely affected party, or within a reasonable time if the State fails to address the issue(s) raised in writing.

§ 35.3035 Public participation.

(a) Public participation during the development, review, approval, and major revision of the delegation agreement shall be in accordance with the requirements of Section 101(e) of the Act, Part 25 of this chapter, and this subpart.

(b) The Regional Administrator and the State will consult informally with interested or affected groups and citizens during negotiation of the initial delegation agreement, and also during renegotiation, if major amendments or revisions of significant interest to the public, as determined by the Regional Administrator or the State agency, are being made to the delegation agreement. A copy of the draft delegation agreement will be made available to the public before it is executed by EPA. One or more public meetings will be held at least 30 days before EPA executes the delegation agreement, if the Regional Administrator or the State agency determines that significant interest and desire for a public meeting exist.

[FR Doc. 82–26583 Filed 9–27–82; 8:45 am]
BILLING CODE 6560–50–M

---

40 CFR Part 230

[OW–FRL 2218–2]

Guidelines for Specification of Disposal Sites for Dredged or Fill Material

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of denial of requests for extension of comment period.

SUMMARY: On August 23, 1982, EPA issued an Advance Notice of Proposed Rulemaking requesting comments on the guidelines for specification of disposal sites for dredged or fill material under section 404(b)(1) of the Clean Water Act (47 FR 36798). The comment period on this notice expired September 22, 1982. EPA has received a number of requests that this comment period be extended for at least two weeks. EPA is denying these requests, however, because of the

urgency of making clarifying reforms to the section 404 program and, in particular, the section 404(b)(1) guidelines. Of course, any such revisions to the guidelines will be proposed in the **Federal Register**, and opportunity for public comments on the proposal will be provided.

FOR FURTHER INFORMATION CONTACT: Suzanne Schwartz, Criteria and Standards Division (WH–585), Office of Water, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202–472–3400.

SUPPLEMENTARY INFORMATION: The section 404(b)(1) environmental guidelines were originally promulgated by the Administrator in interim-final form on September 5, 1975, after consultation with the Corps of Engineers (COE). After promulgation of the interim-final guidelines, the Act was substantially amended in 1977. As a result of the 1977 amendments, the guidelines were revised and published in final form on December 24, 1980, simultaneously with proposed revised testing requirements for the guidelines.

In August 1981, the section 404 program was designated for review by the President's Task Force on Regulatory Relief. On May 7, 1982, the Task Force announced a program of administrative reforms to simplify the section 404 program and eliminate unnecessary delays. As part of this process, on August 23, 1982, EPA published in the **Federal Register** (47 FR 36798) an Advance Notice of Proposed Rulemaking soliciting comments on the environmental guidelines promulgated by EPA under section 404(b)(1) of the Act.

The 404(b)(1) guidelines are a particularly important part of the section 404 program, because they establish the environmental criteria used to evaluate *all* permit applications and proposed general permits for discharges of dredged or fill material. Neither individual nor general permits may be issued by the COE or by a State with an approved section 404 program unless they are consistent with the 404(b)(1) guidelines.

EPA has received a number of requests that the comment period be extended. Requests for a 30 day extension were received from the Utility Water Act Group on September 10, 1982, the Office of Coastal Zone Management on September 13, 1982, the National Wildlife Federation on September 14, 1982, and the National Marine Fisheries Service on September 15, 1982. A request for a 15 day extension was received from the Attorney General of the State of Illinois on September 21, 1982. These requests are being denied because of the urgency of making clarifying changes to the section 404 program and the need to implement aspects of the administrative reforms recommended by the Task Force in an expeditious and consistent manner. Therefore, we must adhere to a tight regulatory agenda which does not allow for extension of the comment period.

However, because this is an advance notice and not yet a formal rulemaking proposal, we can and will consider comments and supporting information received after the end of the comment period to the extent our schedule allows. Such information should be submitted as soon as possible in order for EPA to give it adequate consideration.

In addition, should EPA propose revisions to the section 404(b)(1) guidelines, the Agency will provide opportunity for public comments both in hearings and in writing on any proposed changes to the guidelines. Any comments submitted in response to the advance notice which could not be considered at this time will be considered as part of the record on any proposal to revise the guidelines.

Dated: September 24, 1982.

Rebecca W. Hamme,

Acting Assistant Administrator for Water.

[FR Doc. 82–26704 Filed 9–27–82; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 653

[Docket No. 2830–171]

Atlantic Herring Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of initial decision to withdraw plan approval, proposed repeal of regulations, and request for comments.

SUMMARY: NOAA announces its initial determination to withdraw Secretarial approval of the Fishery Management Plan for the Atlantic Herring Fishery of the Northwest Atlantic (FMP), and proposes to repeal the regulations implementing the FMP. Comments are requested. Withdrawal of FMP approval is necessitated by serious operational difficulties in implementing the FMP, which no longer meets the national standards of the Magnuson Fishery Conservation and Management Act. The intended effect of the repeal of the regulations is to eliminate Federal management of the Atlantic herring fishery until such time as the New England Fishery Management Council prepares a new management plan which can be approved and implemented.

DATE: Comments must be received on or before November 12, 1982.

ADDRESSES: Comments may be mailed to Frank Grice, Chief, Management Division, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts, 01930. A copy of the regulatory impact review may be obtained from Mr. Grice.

FOR FURTHER INFORMATION CONTACT: Barbara S. Claflin, Herring Plan Coordinator, 617–281–3600, extension 351.

SUPPLEMENTARY INFORMATION: The FMP, developed by the New England Fishery Management Council (Council), was approved in December 1978. It was implemented on March 19, 1979 (44 FR 17186), under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Amendment 1 to the FMP revised the procedure for determining when a quota is reached (44 FR 37616). Amendment 2 extended the optimum yield (OY) and seasonal allocations for the Georges Bank and Gulf of Maine management areas through the 1979–80 fishing year (44 FR 56700).

Amendment 3, the most recent amendment to the FMP, was implemented in August 1980 (45 FR 52810). Amendment 3 expanded the management unit to include the herring fisheries from the shoreline of all States out to the seaward limit of the fishery conservation zone (FCZ). Prior to this amendment, the herring fishery within Maine's boundaries was not part of the management unit, although the herring fisheries within other States' boundaries were included. The redefined management unit was designed to manage the species throughout its range, in order to better fulfill the requirements of national standard 30 of the Magnuson Act (16 U.S.C. 1851(a)(3)). Amendment 3 also increased the Gulf of Maine OY and quotas for age-3-and-older fish (age 3+), and modified the "area/period" allocation system.

The result of these amendments is a quota-based management system that depends on State cooperation for its effectiveness. Section 2.2 of the FMP mandates that "All herring age 3 and older taken from territorial waters of all States are to be deducted from the appropriate area/period allocations." Under terms of section 4.2 of the FMP, "all States are relied upon to enforce the

area/period seasonal allocations by closing directed herring fisheries in their territorial waters when the seasonal catch allocations have been taken."

Shortly after approval and implementation of Amendment 3, problems with the herring management system became apparent. The National Marine Fisheries Service (NMFS) was unable successfully to implement the FMP in conformance with the Magnuson Act during the 1980–81 fishing year. When the area/period seasonal catch allocations (quotas) established by the FMP had been reached during the 1980 summer/fall fishing period, the FCZ was closed as required under the implementing regulations. The States, however, failed to take appropriate action. There was a delayed closure of Massachusetts waters and no closures at all of Maine and New Hampshire waters. Under the FMP, the Gulf of Maine quota for the 1980 summer/fall fishing period was 17,850 mt. Herring landings from the FCZ and State waters totaled 57,131 mt, exceeding the quota by 39,281 mt.

The NMFS recognized the need to address the problems with herring management after the failure of the FMP to restrict landings to the quotas and maintain the specified OY, and the failure to attain any assurances from the States that the necessary level of cooperation would be forthcoming. Under authority of section 305(b) of the Magnuson Act, a hearing was held on May 22, 1981, to receive public comments on the operation and continued implementation of the FMP.

In the agency recommendations that resulted from the hearing, the management problems and their causes were detailed. Since 85 percent of the total 1980–81 herring harvest had been taken from territorial waters, FCZ closures without territorial waters closures were ineffective in maintaining the quotas and achieving OY. Inconsistent management between Maine's territorial waters and the FCZ was also identified as a critical factor. Maine deducted from the quota only age-3+ herring greater than 9 inches in length and caught by mobile gear. The FMP requires that all age-3+ herring caught, regardless of length or capture method, be deducted from the quota.

The lack of State cooperation in providing consistent management resulted in a failure to achieve national standards 1 (to achieve OY) and 3 (to manage the fishery as a unit). In addition, it appeared that harvest levels of age-3+ herring are effectively controlled by year class strength, availability of the resource to the fishery, and market demand, rather than by the quotas. Therefore, the fixed-quota management strategy appears inappropriate for management of Atlantic herring. Accordingly, the FMP is also arguably inconsistent with national standard 6, which provides that conservation and management measures must take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

A letter from the Assistant Administrator for Fisheries, NOAA, to the Council in December 1981 informed the Council that it must clarify and amend various portions of the FMP by July 1, 1982, to resolve management problems and to reconcile the FMP's management measures with NMFS' capability to implement them. The letter also indicated to the Council that, in the absence of action on its part, NOAA/NMFS would take remedial action and either amend the FMP or withdraw plan approval. Although the Council's Herring Oversight Committee has begun to address the problems, the Council did not take significant remedial action by July 1.

NMFS forecasts that, during the 1982 summer/fall fishing period, there will be a larger number of age-3 herring than age-2 herring in the fishery. The fishing patterns of recent years indicate that most of the age-3 herring are likely to be harvested within State boundaries. These stock conditions and harvesting patterns are similar to those that occurred during the 1980 summer/fall fishing period. Therefore, it is likely that quotas will be exceeded, and area/period closures will be necessary. Although NMFS is required by the regulations to close the herring fishery in the FCZ to enforce quotas, Maine and Massachusetts have not guaranteed cooperation in enacting similar closures in territorial waters. As it appears that the implementation problems experienced in the 1980–1981 fishing year will recur, immediate action to withdraw approval of a plan which no longer meets the national standards is required.

Alternatives to withdrawing approval of the FMP include taking no action while waiting for the Council to complete an amendment, or preparing one of several kinds of Secretarial amendment. After careful evaluation of all the alternatives, withdrawal of approval was determined to be the most appropriate alternative. The alternative under which NMFS would take no action and wait for the Council to develop an amendment is not an appropriate response to identified management problems. The Council's amendment, which is barely in outline form at this time, could not be completed, reviewed, and implemented within a year, or possibly longer. In the interim, NMFS would continue to be unable to implement effectively the FMP because of noncooperation from the concerned States.

The alternative of implementing a Secretarial amendment to the FMP is not desirable because NMFS prefers, in this difficult management situation, to implement the Council's policy decisions rather than to impose its own plan. As with the former alternative, a Secretarial amendment could not be implemented in sufficient time to address problems anticipated during the 1982 summer/fall fishery.

Withdrawal of plan approval was selected over other alternatives because approval of the FMP was based upon assumptions and statements that have proven to be erroneous, and because circumstances have changed in the fishery. These assumptions and changed fishery circumstances have rendered the FMP invalid and inoperative since its approval.

Statements and assumptions that have proved to be erroneous are found in section 4.2 of Amendment 3, which concerns the relationships of the FMP to State management. This section describes State actions taken in response to the approval and implementation of the original FMP, and specifies a continuing reliance upon the States to ensure the effectiveness of the FMP. Furthermore, by section 4.2.2, the States of Maine, Massachusetts, and Rhode Island are expected to implement herring management plans that are complementary with the FMP. Section 4.2.1.1 discusses Maine's 1979 herring plan, indicating Maine's quotas are consistent with those established in the FMP, and that the Maine plan is consistent with appropriate State management measures described in section 4.2.2 of the FMP. However, experience has demonstrated the Maine herring plan is not consistent with the FMP, and serious management problems have arisen, in part because of different interpretations of section 4.2.2. A recent attempt by NMFS to provide Maine with a clarified interpretation of this section did not resolve the management problems. In addition, section 4.2.1.3 indicates that the Massachusetts Director of the Division of Marine Fisheries has the authority to close State waters to herring fishing when seasonal allocations for the Gulf of Maine are reached and after notification of FCZ closure is received from the Assistant Administrator for Fisheries. However, use of this authority to close Massachusetts' waters is discretionary,

and is expected to be based primarily on socio-economic considerations and the responses of other States to FCA closures.

In conclusion, experience has shown that section 4.2 of the FMP is clearly in error. When Amendment 3 was approved, there was every reason to expect State cooperation in accordance with this section; events have proven otherwise. The level of State cooperation necessary to carry out the management measures of the FMP has not been, and is not anticipated to be, forthcoming.

Changed circumstances in the fishery also justify withdrawal of FMP approval. The changed circumstances involve (1) the condition of the resource, and (2) the market demand for adult herring products.

The condition of the Atlantic herring resource has improved significantly since the FMP was implemented in 1977. The spawning stock biomass increased from a very low level in 1979 of 131,000 mt to 562,000 mt at the beginning of 1981, according to the most recent assessment. The Council believes that the main objective of the FMP has been achieved—that is, adult stocks have been managed to achieve individual biomass levels at which annual recruitment continues and is stabilized allowing for annual stock increases. Recent stock assessments appear to support this conclusion. However, since the stock appears to be in a healthy condition, restrictive quotas are probably unnecessary, in the short run, for the protection of the resource.

The FMP recognized that market-induced pressures affect harvests of the Gulf of Maine herring stocks. The FMP's quota-based management system was implemented to control harvest levels. During the first years of management under the FMP, the collapse of the herring stocks in the North Sea resulted in a strong export market in Western Europe for herring fillets. The FMP annual quota of 8,000 mt of adult herring prevented the U.S. industry from taking full advantage of this market. As the Gulf of Maine herring stocks inproved and annual quotas increased to 30,000 mt, the industry was able to export at top prices. As noted, the 1980 summer/fall harvest of age-3 + herring exceeded the quota by 39,281 mt. By 1981, herring were again being taken in the North Sea, and the demand for Gulf of Maine herring products was reduced. Only a limited export market for roe herring in Japan was available. The domestic market for fillets and other adult herring products has expanded, resulting in continued but much reduced interest in the fishery. In conclusion, when herring are abundant and available, market pressures, rather than FMP quotas, control the level of harvest.

Withdrawal of approval of this FMP necessitates the repeal of the implementing regulations (50 CFR Part 653). This notice requests comments on withdrawing approval of the FMP and on the proposed repeal of the regulations. Comments may be sent to the address listed above.

Classification

An environmental assessment was prepared to determine whether the proposed action will have a significant impact on the environment. The Assistant Administrator for Fisheries, NOAA, has determined that repealing the regulations will not significantly affect the environment, so that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

A regulatory inpact review (RIR) was prepared. The RIR concludes that harvest levels have not been controlled by the FMP quotas, but rather by the availability of, and market demand for, herring. Repeal of regulations is not expected to affect supply, price, or income in the fishery. The Administrator has determined, after reviewing the information set forth in the RIR, that this action is non-major under E.O. 12291; accordingly, preparation of a regulatory impact analysis is not required.

The General Counsel for the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (see discussion in paragraph above).

List of Subjects in 50 CFR 653

Fish, Fisheries, Reporting requirements.

Dated: September 17, 1982.

Willian G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 653—ATLANTIC HERRING [RESERVED]

50 CFR Part 653 is proposed to be amended as follows:

1. The authority citation for Part 653 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Part 653 is proposed to be revoked and this part number reserved.

[FR Doc. 82-26261 Filed 9-27-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 188
Tuesday, September 28, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

Notice is hereby given in accordance with Section 800.6(d)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that the Advisory Council on Historic Preservation will meet on Tuesday, October 19, 1982, in the Board Room, AIA Headquarters, 1735 New York Avenue NW., Washington, D.C. The meeting will begin at 9:00 a.m. The meeting is open to the public.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol, the Secretaries of the Interior, Agriculture, Housing and Urban Development, Treasury, Transportation; the General Services Administrator; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor, a Mayor, and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following: 9 a.m., Call to Order, Chairman's Welcome, Swearing-In Ceremony, Order of Business, Consideration of Minutes of May 25, 1982, Meeting.

I. Section 106 Cases

A. Council Comment: Anderson Ferry, Cincinnati, Ohio
1. Report of the U.S. Corps of Engineers
2. Report of the State Historic Preservation Officer
3. Executive Director's Report

B. Status Reports
1. Fort Logan Roots, Arkansas
2. Memphis Street Railway Office and Streetcar Complex, Tennessee

C. Panel Report
1. Rincon Point/South Beach Project, San Francisco, California

Luncheon Recess

II. Report of the Executive Director

A. 1984 Budget
B. Council Reauthorization

III. Report of the General Counsel

A. Suspension of Regulations
B. Conflict of Interest Regulations
C. Enterprise Zones

IV. Task Force Reports

A. Regulations Review
B. Federalism and Preservation
C. Tax Study

V. Preservation Planning

A. Resource Protection Planning (RP–3)
B. Relation to Section 106

VI. New Business

Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, Suite 430, 1522 K Street NW., Washington, D.C. 20005, 202–254–3967.

Dated: September 21, 1982.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 82–26564 Filed 9–27–82; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Commodity Credit—Corporation

1982 Crop Soybean Preliminary Loan and Purchase Rate

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination of 1982 crop soybean preliminary loan and purchase rate.

SUMMARY: The purpose of this notice is to announce the preliminary loan and purchase rate for the 1982 soybean crop at $5.02 per bushel. This determination is required to be made by the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981.

EFFECTIVE DATE: August 3, 1982.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe, Agricultural Economist, Analysis Division, ASCS–USDA, P.O. Box 2415, Washington, D.C. 20013, Telephone (202) 447–4417. Since this is a preliminary determination calculated in accordance with the statutory formula, no Impact Analysis was prepared.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been designated "not major." It was designated "not major" because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local Government agencies, or geographic regions, or (3) significant adverse impacts on competition, employment, investment; productivity, innovation, or the ability of U.S. 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 applies to are: Title—Commodity Loans and Purchases; Number—10.051 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Commodity Credit Corporation 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 notice.

Section 201(g)(1) of the Agricultural Act of 1949, as amended provides that the price of soybeans for each of the 1982 through 1985 marketing years shall be supported through loans and purchases at a level equal to 75 percent of the simple average price received by farmers for soybeans for each of the preceding five marketing years, excluding the high and low valued years. However, the Secretary cannot establish the support price at less than $5.02 per bushel. If the Secretary determines that the average price producers receive for soybeans in any marketing year is not more than 105

percent of the level of loans and purchases for such marketing year, the support level may be reduced for the next marketing year by the amount which is determined to be necessary to maintain domestic and export markets for soybeans. However, the price support level for loans and purchases cannot be reduced by more than 10 percent in any year nor below $4.50 per bushel.

Section 201(g)(1) also provides that the Secretary must make a preliminary announcement of the level of price support no earlier than 30 days prior to September 1, the beginning of the marketing year, based upon the latest information and statistics then available. The Secretary must make a final announcement of such level as soon as full information and statistics are available on prices for the five years preceding the beginning of the marketing year. The final level of price support must be announced no later than October 1 of the marketing year to which the announcement applies. The final level of support cannot be less than that of the preliminary announcement.

It was essential that this determination be announced as soon as possible so that farmers could make their marketing plans. Accordingly, the preliminary loan and purchase rate for the 1982 crop of soybeans was determined and announced by the Secretary by press release on August 3, 1982. Since the purpose of this notice is to affirm the announcement of the preliminary level of support, it has been determined that no further rulemaking is required with respect to this determination. The basis for the determination is set forth herein.

Determination

The average price received by farmers for soybeans for each of the preceding five years, excluding the high and low valued years, is $6.41 per bushel; 75 percent of which is $4.81. Therefore, the preliminary 1982-crop soybean loan and purchase rate will be $5.02 per bushel, the minimum rate required by law. This determination is based on the following data:

(1) *Season-Average Soybean Prices ($/bu.).*1977, $5.98; 1978, $6.83; 1979, $6.29; 1980, $7.50; 1981, $6.10.

(2) Average of the five years, excluding the low valued year (1977) and the high valued year (1980): ($6.83+$6.29+$6.10)/3=$6.41 per bushel.

(3) Preliminary loan and purchase rate calculation: $6.41×.75=$4.81.

(4) Since the calculated rate of $4.81 per bushel is less than the statutory minimum rate of $5.02 per bushel, the preliminary rate must be established at $5.02 per bushel.

Signed at Washington, D.C. on September 23, 1982.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-26635 Filed 9-27-82; 8:45 am]

BILLING CODE 3410-05-M

Soil Conservation Service

Crowley's Ridge and Bentoo Hills RC&D Measure, Missouri

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Crowley's Ridge and Benton Hills RC&D Measure, Scott, Stoddard and Dunklin Counties, Missouri.

FOR FURTHER INFORMATION CONTACT: Paul F. Larson, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri, 65202, telephone 314/875-5214.

SUPPLEMENTARY INFORMATION: The Environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional or national impacts on the environment. As a result of these findings, Paul F. Larson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The Noticed of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Paul F. Larson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Date: September 16, 1982.

Russell C. Mills,

Assistant State Conservationist—Programs.

[FR Doc. 82-26453 Filed 9-27-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 40534]

Braniff-South American Route Transfer Case; Notice of Prehearing Conference

Notice is hereby given that a Prehearing Conference in the above-titled matter is assigned to be held on October 14, 1982 at 10:00 a.m. (local time), in Hearing Room "A", 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

In order to facilitate the conduct of the conference, parties in this proceeding and interested persons filing petitions to intervene are invited to submit on or before October 8, 1982, with one copy served on each party and each prospective party and three copies to the judge, (1) a proposed statement of issues; (2) proposed stipulations; (3) statements of positions, and (4) proposed procedural dates. This submission is in addition to the responses to the Bureau's evidence request which are to be submitted on October 4, 1982 pursuant to the Chief Judge's Order Establishing Initial Procedural Schedule issued concurrently with this Notice.

Dated at Washington, D.C., September 23, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-26639 Filed 9-27-82; 8:45 am]

BILLING CODE 6320-01-M

Braniff-South American Route Transfer Case; Order

AGENCY: Civil Aeronautics Board.

ACTION: Order instituting *Braniff South American Route Transfer Case,* Order 82-9-81, Docket 40534.

SUMMARY: The Board has instituted the *Braniff South American Route Transfer Case,* to consider the applications of Eastern and Pan American/Air Florida for transfer of Braniff's South American routes, and has dismissed the competing certificate applications for some or all of

these routes. The complete text of Order 82–9–81 is available as noted below.

DATES: Order 82–9–81 was adopted September 22, 1982. Petitions for reconsideration are due within 20 days, i.e., on October 12, 1982, and answers to petitions are due within 10 days thereafter, *i.e.*, October 22, 1982.

ADDRESSES: Petitions for reconsideration and answers should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C., in Docket 40534.

FOR FURTHER INFORMATION CONTACT: Joseph Di Bella, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–5035.

SUPPLEMENTARY INFORMATION: A copy of Order 82–9–81 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–9–81 to the Distribution Section.

By the Civil Aeronautics Board: September 22, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–26636 Filed 9–27–82; 8:45 am]

BILLING CODE 6320–01–M

[Order 82–9–95]

Fitness Determination of Manu'a Air Transport, Inc.; Order To Show Cause.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of commuter air carrier fitness determination—Order 82–9–95, Order to Show Cause

SUMMARY: The Board is proposing to find that Manu'a Air Transport, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than October 12, 1982, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to Order 82–9–95.

FOR FURTHER INFORMATION CONTACT: Ms. Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–9–95 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–9–95 to that address.

By the Civil Aeronautics Board: September 23, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–26638 Filed 9–27–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Friend Manufacturing Corporation, P.O. Box A, Gasport, New York 14067, producer of agricultural sprayers and other equipment (accepted August 27, 1982); (2) Anson Incorporated, 100 DuPont Drive, Providence, Rhode Island 02907, producer of jewelry, writing instruments, figurines and metal boxes (accepted August 27, 1982); (3) H. D. MacDonald, Inc., 99 Chestnut Street, North Attleboro, Massachusetts 02760, producer of jewelry (accepted August 30, 1982); (4) Wesley International Corporation, P.O. Box 934, Scottdale, Georgia 30079, producer of pallet trucks and other materials handling equipment (accepted August 31, 1982); (5) Louis Lefkowitz and Brother, Inc., 50 Washington Avenue, Milltown, New Jersey 08850, producer of carrying cases and leather straps, handles, sheaths and grips (accepted September 1, 1982); (6) Dart Industries, Inc., 4913 Crofton Road, Louisville, Kentucky 40207, producer of metal display fixtures and housewares (accepted September 2, 1982); (7) Shintron Company, Inc., 144 Rogers Street, Cambridge, Massachusetts 02142, producer of television equipment (accepted September 7, 1982); (8) Northern Heel Corporation, Six Grove Street, Dover, New Hampshire 03820, producer of shoe heels, baseballs and industrial molds (accepted September 7, 1982); (9) Mary Meyer Manufacturing Company, Inc., Mary Meyer Station, Townshend, Vermont 05353, producer of stuffed toys (accepted September 7, 1982); (10) VoCorp, Inc., 312 Marlboro Street, Keene, New Hampshire 03431, producer of shears (accepted September 7, 1982); (11) Advanced Terminals, Inc., 6700 Thompson Road, N., Syracuse, New York 13211, producer of computer printer equipment (accepted September 7, 1982); (12) Empacadora F.Q., Inc., G.P.O. Box 3558, San Juan, Puerto Rico 00936, processor of meat (accepted September 8, 1982); (13) Neely Manufacturing Company, Inc., State Highway 2 West, Corydon, Iowa 50068, producer of garment bags and ponchos (accepted September 8, 1982); (14) David F. Sklar Laboratories, Inc., Peekskill Hollow Road, Carmel, New York 10512, producer of laboratory equipment and parts (accepted September 9, 1982); (15) Douglas Company, Inc., Krif Road, Keene, New Hampshire 03431, producer of stuffed toys (accepted September 10, 1982); (16) Thomas' Handbags, Inc., 86 Webster Street, Haverhill, Massachusetts 01830, producer of handbags (accepted September 9, 1982); (17) Parco-Parisi Corporation, 91 Hartford Avenue, Providence, Rhode Island 02909, producer of jewelry (accepted September 10, 1982); (18) Harwood Manufacturing Company, 415 Valley Street, Providence, Rhode Island 02908, producer of metal stamped and cast novelties and giftware (accepted September 10, 1982); (19) Vermont Abestos Group, Inc., Stafford Avenue, Morrisville, Vermont 05661, producer of asbestos fiber (accepted September 10, 1982); (20) Ronnie Dress Company, R.D. Number 2, Shickshinny, Pennsylvania 18655, producer of women's dresses (accepted September 10, 1982); (21) Jean Fogel Creations, Inc., 628 Broadway, New York, New York 10012, producer of handbags (accepted September 10, 1982); (22) Jo-Ann Apparel, Inc., Lovell Park, Ebensburg, Pennsylvania 15931, producer of women's dresses (accepted September 13, 1982); (23) United Retail Corporation, 531 Kamoku, PH8, Honolulu, Hawaii 96826, producer of gem stones (accepted September 13, 1982); (24) Hyde Spring and Wire Company, 14341 Schaefer Highway, Detroit, Michigan 48227, producer of springs and other wire products (accepted September 15, 1982); (25) Ellingson Lumber Company, P.O. Box 866, Baker, Oregon 97814, producer of softwood lumber, veneer and panels (accepted September 15, 1982); (26) Signature Office Furniture, Inc., 810 East 61st Street, Los Angeles, California 90001, producer of wood office furniture (accepted September 15, 1982); and (27) Midwest Stoves, Inc., P.O. Box 1704,

Mount Vernon, Illinois 62864, producer of stoves and fireplace inserts (accepted September 16, 1982);

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Charles L. Smith,

Acting Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 82–26551 Filed 9–27–82; 8:45 am]

BILLING CODE 3510–25–M

[Order No. 41–2 (Amendment 1); D.O.O. Reference 10–3, 40–1]

Organization and Function Order; Deputy Under Secretary for International Trade

Effective Date: August 22, 1982.

This order amends ITA Organization and Function Order 41–2 of March 31, 1982 (47 FR 22996) to abolish the Information Systems Staff in the Office of Personnel, reassign its functions to the Special Programs Staff, Office of Personnel, and abolish the Office of Administrative Support to reflect the transfer of its functions to the Office of the Secretary.

1. Part III, Section 2.03e. is deleted.

2. Part III, Section 3.01b. is revised as follows:

"b. The Special Programs Staff also plans and coordinates matters relating to the development of ITA-wide personnel management information systems and procedures, including records and reports; processes personnel actions, ensures proper documentation for legality and propriety and maintains control over the content and disposition of Official Personnel Folders; coordinates with ADP personnel concerning processing and records documentation, improvements, or needs relating to personnel management and administration; provides ADP input necessary to generate SF–113 reports and a variety of statistical, personnel and employee information reports; provides advice and assistance to serviced organizations concerning employment benefits and entitlements, such as health plans and insurance programs; arranges for National Agency checks by the Office of Personnel Management and processes employee security clearance; conducts the ITA security program; provides physical and document security orientation for employees and security briefings; maintains NATO sub-registry for Commerce; controls credentials, building passes and keys; performs the safety function for ITA; and provides paymaster services."

3. Part III, Section 7 is deleted.

The attached organization chart [1] supersedes the chart attached to ITA Organization and Function Order 41–2 of March 31, 1982.

Lionel Olmer,

Under Secretary for International Trade.

[FR Doc. 82–26570 Filed 9–27–82; 8:45 am]

BILLING CODE 3510–25–M

Exemption of Foreign Air Carriers from Customs Duties and Taxes, Nigeria

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce is completing an investigation to determine the extent to which the Government of Nigeria allows substantially reciprocal privileges in exempting aircraft supplies and equipment from import duties and certain internal revenue taxes. Interested parties are invited to submit their views and comments on this investigation.

DATE: Comments must be submitted on or before October 28, 1982.

ADDRESS: Comments may be sent to: Albert N. Alexander, Office of Service Industries, International Trade Administration, Room 1124, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Fred Elliott, 202–377–5071.

SUPPLEMENTARY INFORMATION: Pursuant to a request by Nigeria Airways, Ltd. in 1978 (see 43 FR 32444 of July 27, 1978), the Department of Commerce (the Department) undertook an investigation to determine whether the Government of Nigeria allowed customs and tax exemptions to aircraft of U.S. registry substantially reciprocal to those that the U.S. Government would allow under sections 309 and 317 of the Tariff Act of 1930, as amended (19 U.S.C. 1309 and 1317), and section 4221 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 4221). The Department is now completing its investigation and invites final comments from interested parties.

The above-cited statutes provide exemptions for aircraft of foreign registry from payment of import duties and certain internal revenue taxes on the import or purchase of supplies in the United States for such aircraft in connection with their international commercial operations. "Supplies" as used in this context includes a wide range of articles used by aircraft in international operations including fuel and lubricants, spare parts, consumable supplies, and ground handling and support equipment. These exemptions apply upon a finding by the Secretary of Commerce, or his designee, and communicated to the Department of Treasury, that such country allows, or will allow, "substantially reciprocal privileges" to aircraft of United States registry.

Written comments regarding this review will be maintained in the International Trade Administration, Freedom of Information Records Inspection Facility, Room 4001B, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

[1] Filed as part of the original document.

Dated: September 22, 1982.

Donald V. Earnshaw,

Deputy Assistant Secretary for Export Development.

[FR Doc. 82-26634 Filed 9-27-82; 8:45 am]

BILLING CODE 3510-25-M

Extension of Period for Final Determinations: Certain Steel Products From Belgium, the United Kingdom, France, The Netherlands, Italy, and the Federal Republic of Germany; Carbon Steel Structural Shapes From Luxembourg; and Carbon Steel Plate From Romania

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of extension of period for final determinations.

SUMMARY: The Department of Commerce hereby extends the period for its final determinations with respect to the antidumping investigations of certain steel products from Belgium, the United Kingdom, France, the Netherlands, Italy, and the Federal Republic of Germany; carbon steel structural shapes from Luxembourg; and carbon steel plate from Romania. The final determinations will be made no later than December 29, 1982.

EFFECTIVE DATE: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Binder, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230 (202) 377-1273.

SUPPLEMENTARY INFORMATION: On August 9, 1982, the Department of Commerce determined preliminarily that certain steel products from Belgium, the United Kingdom, France, Italy, the Federal Republic of Germany, and carbon steel plate from Romania were being sold, or were likely to be sold, at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act). The Department also determined preliminarily that certain steel products from the Netherlands and carbon steel structural shapes from Luxembourg were not being sold, or were not likely to be sold, at less than fair value within the meaning of the Act. We announced our determinations in the Federal Register on August 16, 1982 (47 FR 35646).

In those proceedings where the preliminary determinations were affirmative, exporters who accounted for a significant proportion of exports of the merchandise which are the subject of these investigations have requested that the Department extend the period for final determinations. In those proceedings where the preliminary determinations were negative, the petitioners have requested extensions. These requests are in accordance with sections 735(a)(2) (A) and (B) of the Act (19 U.S.C. 1673d(a)(2) (A) and (B)).

We have determined that additional time is needed in order to ensure that a proper analysis may be completed with regard to these investigations. Accordingly, the period for determinations in these cases is hereby extended. Final determinations will be made not later than December 29, 1982.

Public Comment

As stated in the preliminary determinations (47 FR 35646), public hearings, if requested, were to be held in accordance with § 353.47 of the Commerce Department Regulations. Due to these extensions of the period for final determinations, the hearing dates have also been extended. If requested, we will hold public hearings to afford interested parties an opportunity to comment on the preliminary determinations at the United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. The new dates, times, and room numbers follow:

Romania—November 2, 1982, 10 am, Room 3104
United Kingdom—November 2, 1982, 2 pm, Room 3104
The Netherlands—November 3, 1982, 10 am, Room 1851
Italy—November 3, 1982, 2 pm, Room 1851
Luxembourg—November 4, 1982, 10 am, Room 4830
Federal Republic of Germany—November 4, 1982, 2 pm, Room 4830
France—November 5, 1982, 10 am, Room 3104
Belgium—November 5, 1982, 2 pm, Room 3104

As stated in the preliminary determinations (47 FR 35646), all written views were to be filed in accordance with 19 CFR 353.46, within thirty days of publication of the preliminary determination notices at the above address and in at least ten copies. Because of these extensions, written views filed in accordance with 19 CFR 353.46 will be considered if received on or before November 15, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration

September 22, 1982.

[FR Doc. 82-26633 Filed 9-27-82; 8:45 am]

BILLING CODE 3510-25-M

Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

On September 17, 1982, notice was given in the Federal Register (47 FR 41153), that the Travel and Tourism Advisory Board would meet on October 7, 1982. Notice is hereby given that the Travel and Tourism Advisory Board meeting will begin at 10:45 am in Room 5859 of the Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial export.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97-63), and provide guidance to the Assistant Secretary for tourism Marketing in the preparation of annual marketing plans.

Agenda items are as follows:

I. Call to Order
II. Approval of the Minutes
III. Report
A. In-flight survey
IV. Old Business
A. Status of visa Waiver legislation
B. Customs and Immigration user fees
V. New Business
A. Customs staffing
B. Customs ASSIST program
C. VISIT USA—a promotional program to increase tourism to the United States
D. 1992 World's Fair
E. OMB understanding of the tourism industry
F. Travel industry image
VI. Miscellaneous
VII. Date of next meeting
VII. Adjournment

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Christine Hathaway, Committee Control Officer, United States Travel and Tourism Administration, Room 1865, U.S. Department of Commerce, Washington, D.C. 20230, (Telephone: 202/377-0136), will respond to public

requests for information about the meeting.

Peter McCoy,

Under Secretary for Travel and Tourism, Department of Commerce.

[FR Doc. 82-26632 Filed 9-27-82; 8:45 am]

BILLING CODE 3510-11-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board.
Date of meeting: Tuesday, 19 October 1982.
Time: 0830-1700 hours (Closed).
Place: The Pentagon, Washington, D.C.
Agenda: The Research Functional Subgroup of the Army Science Board will meet for the purpose of receiving briefings and discussing issues, developments, and opportunities relative to Army research. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-26525 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board.
Date of meeting: Tuesday, 19 October 1982.
Time: 0830-1630 hours (Closed).
Place: The Pentagon, Washington, D.C.
Agenda: The Army Science Board Functional Subgroup on Systems will meet to receive briefings and hold discussions on Army research, development, and acquisition issues, developments, and opportunities in that specific area. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-26526 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board.
Dates of meeting: Wednesday, 20 October 1982; Thursday, 21 October 1982.
Times: 0830-1700 hours on 20 October (closed); 0830-1600 hours on 21 October (closed).
Place: The Pentagon, Washington, D.C.
Agenda: The Army Science Board Functional Subgroup on Mobility will meet to receive briefings and hold discussions in that specific area with respect to Army research, development, and acquisition issues, developments, and opportunities. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-26527 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).
Dates of meeting: Wednesday, 20 October 1982; Thursday, 21 October 1982.
Times: 0830-1700 hours on 20 October (closed); 0830-1600 hours on 21 October (closed).
Place: The Pentagon, Washington, D.C.
Agenda: The Army Science Board Ad Hoc Subgroup on Ballistic Missile Defense will meet to receive subcommittee reports and develop conclusions and recommendations for the final report. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-26528 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board.
Date of meeting: Monday, 25 October 1982.
Time: 0830-1700 hours, 25 October (closed).
Place: The Pentagon, Washington, D.C.
Agenda: The Logistics Functional Subgroup of the Army Science Board will meet for the purpose of receiving briefings and discussing issues, development, and opportunities relative to Army logistics. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697-9703 or 695-3039.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-26529 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-08-M

Department of the Army

United States Army Medical Research and Development Advisory Committee, Subcommittee on Blood Preservation and Substitutes; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Blood Preservation and Substitutes.
Date of meeting: 5 November 1982.
Time and place: 0900 hrs, Conference Room AS3102, Letterman Army Institute of Research, Presidio of San Francisco, CA.
Proposed agenda: This meeting will be open to the public from 0900 to 1045 hrs for the administrative review and discussion of the scientific research program of the Blood Preservation and Substitutes Group, Letterman Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 1100 to 1715 hrs for the review, discussion and evaluation

of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Ryan Neville, Assistant Director, Research Contract Management, Letterman Army Institute of Research, Presidio of San Francisco, CA 94129 (415/561–4367), will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield, M.D.,

Colonel, MC, Deputy Commander.

September 15, 1982.

[FR Doc. 82–26622 Filed 9–27–82; 8:45 am]

BILLING CODE 3710–08–M

United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents.

Date of meeting: October 29, 1982.

Time and place: 0830 hrs, Room 14, U.S. Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD.

Proposed agenda: This meeting will be open to the public from 0830 to 0930 hrs for the administrative review and discussion of the scientific research program of the U.S. Army Medical Research Institute of Chemical Defense. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), U.S. Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 0930 to 1730 hrs for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Richard Lindstrom, U.S. Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD 21010 (301/671–2833) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield, M.D.,

Colonel, MC, Deputy Commander.

[FR Doc. 82–26621 Filed 9–27–82; 8:45 am]

BILLING CODE 3710–08–M

Intent To Prepare a Revised Draft Environmental Impact Statement for the Continuing Operation and Maintenance Program of Harlan County Lake, Nebr.

AGENCY: Kansas City District, US Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a revised draft statement.

SUMMARY: 1. The Draft Environmental Impact Statement for the continuing operation and maintenance program of Harlan County Lake was circulated for public review on 13 May 1977. Necessary coordination activities with the Bureau of Reclamation, the US Fish and Wildlife Service and other Corps work priorities delayed completion of a final impact statement. A revised draft is now necessary to reflect major changes in project programs and impacts on the environment that have occurred since 1977.

2. Because the project is in operation, the "no action" alternative of no continued maintenance program will not be considered, but options to ongoing management and maintenance programs will be discussed in the revised draft.

3. The revised draft statement will be coordinated with and reviewed by appropriate Federal, State and local agencies and groups including the US Fish and Wildlife Service, Bureau of Reclamation, Soil Conservation Service, Advisory Council on Historic Preservation, Nebraska Game and Parks Commission, local county governments and other groups and individuals. A public meeting concerning project natural resource management activities was held on 21 November 1980. A meeting with project agricultural lessees was also held on 2 March 1981 to discuss project natural resource management alternatives. No other public meetings have been scheduled in conjunction with this revised draft, but any interested agency, organization or individual is invited to comment. Input presented will be considered in the preparation of the revised draft.

4. Environmental concerns analyzed in the revised draft will include the effects of water level fluctuations on project recreation programs, shoreline environments and insect pest populations. The effects of the project land management program in relation to fish and wildlife management, protection of project water, soil and vegetation resources and project agricultural lessees will also be discussed. All environmental consultation and review will be conducted in accordance with the National Environmental Policy Act and other applicable laws and regulations.

5. The revised draft is tentatively scheduled to be available for public review in March 1983.

ADDRESS: Questions concerning the project operation and maintenance program and EIS revision should be directed to Mr. Richard Lenning, Operations Division, Kansas City District, Corps of Engineers, 725 Federal Building, Kansas City, Missouri 64106. Phone: (816) 374–3245 or FTS 758–3245.

Dated: September 21, 1982.

M. D. Jewett,

Acting Chief, Operations Division.

[FR Doc. 82–26586 Filed 9–27–82; 8:45 am]

BILLING CODE 3710–KN–M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Permanent Designation of Dredged Material Ocean Disposal Sites at Coos Bay, Oreg.

LEAD AGENCY: U.S. Army Corps of Engineers, Department of Defense.

COOPERATING AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Intent to prepare a DEIS.

The Corps of Engineers, Portland District, is currently investigating several sites in the vicinity of Coos Bay, Oregon, for designation as dredged material ocean disposal sites. The investigation includes two sites which were designated by the Environmental Protection Agency (EPA) for interim use. These sites have been used for maintenance dredging disposal since 1977.

The following alternatives are being considered at this time:

1. The two existing interim sites.

2. Two new sites near the 35 and 40 fathom contours.

3. A continental slope alternative (deep water).

4. Combinations of the above.

Each of the alternatives will be evaluated for timing of disposal and for material that does and does not meet EPA's ocean dumping exclusion criteria.

The scoping process will formally commence in mid-September 1982, with the issuance of a public notice containing a draft outline of alternatives and potential effects which will be discussed in the DEIS. Federal, State, and local agencies, Indian tribes, and interested organizations and individuals will be asked to comment on the draft outline and to identify significant issues relating to the effects of the alternatives. The DEIS is scheduled for agency and public review in July 1983. The final EIS is scheduled for publication in early 1984.

Address: If you have any questions or need additional information, please contact Steve Stevens, (503) 221–6438 (FTS 423–6438), U.S. Army Corps of Engineers, Natural Resources Branch, P.O. Box 2946, Portland, Oregon 97208.

Dated: September 10, 1982.

R. L. Friedenwald,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-26567 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-GC-M

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, November 2, 1982; Tuesday, November 9, 1982; Tuesday, November 16, 1982; Tuesday, November 23, 1982; and Tuesday, November 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 Public Law 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 involving "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.

[FR Doc. 82-26623 Filed 9-27-82; 8:45 am]

BILLING CODE 3810-01-M

National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School; Notice of Advisory Committee; Meeting

The President of the National Defense University has scheduled a meeting of the National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School on Monday, November 22, 1982, from 0900–1145 and 1330–1600. The meeting will be held in the Hill Conference Center, Theodore Roosevelt Hall (Bldg. 61), Fort Lesley J. McNair, Washington, D.C. The discussions will include progress and plans for the National Defense University and the curricula, faculty, and students of the Industrial College of the Armed Forces, the National War College, and the Armed Forces Staff College. The meeting is open to the public, but the limited space available for observers will be allocated on a first-come, first-served basis. To reserve space, interested persons should write or phone (693–1075), the Assistant to the President, National Defense University, Fort Lesley J. McNair, Washington, D.C. 20319.

September 23, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington, Headquarters Services, Department of Defense.

[FR Doc. 82-26624 Filed 9-27-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Minority Institutions Science Improvement Program

AGENCY: Department of Education.

ACTION: Application notice of Minority Institutions Science Improvement Program (MISIP).

Applications are invited for new grant awards to be made in Fiscal Year 1983 under the Minority Institutions Science Improvement Program (MISIP), administered by the Fund for the Improvement of Postsecondary Education.

The Secretary makes four types of project grant awards under MISIP. Depending on the type of grant, eligible applicants are public and private nonprofit predominantly minority institutions, professional scientific societies, or nonprofit accredited colleges and universities which render a needed service to a group of eligible minority institutions, or which provide in-service training to project directors, scientists, and engineers from eligible institutions.

Authority for this program is contained in section 406A of the General Education Provisions Act, as amended by the Education Amendments of 1980, Pub. L. 96–374.
(20 U.S.C. 1221e–1a)

Closing Dates for Transmittal of Applications. Applications for Institutional, Design, and Cooperative project grants must be mailed or hand-delivered by December 3, 1982. Applications for special project grants must be mailed or hand-delivered by March 4, 1983.

Applications Delivered By Mail. An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.120A, Washington, D.C. 20202.

To establish proof of mailing, an applicant must show one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a mail receipt that is not dated by the U.S. Postal Service as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered By Hand. An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Attention: 84.120A, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Secretary will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications for Institutional, Design, or Cooperative project grants that are hand-delivered will not be accepted after 4:30 p.m. on December 3, 1982. Applications for Special project grants that are hand-delivered will not be accepted after 4:30 p.m. on March 4, 1983.

Program Information. The Secretary supports projects that propose to enhance a minority institution's capacity for developing and maintaining a quality science education program for all of its students and to augment the institution's capability for increasing the flow of underrepresented ethnic minorities into the fields of science and engineering.

The Secretary awards grants in the following categories of projects:

(1) Design project grants to assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement;

(2) Institutional project grants to individual minority institutions to support the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science and engineering;

(3) Cooperative project grants to assist groups of nonprofit accredited colleges and universities to work together to conduct a science improvement project;

(4) Special project grants for which—

(a) Minority institutions are eligible which support activities that improve quality training in science and engineering or enhance a minority institution's general scientific research capabilities.

(b) All applicants are eligible which support activities that provide a needed service to a group of eligible minority institutions or provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

Available Funds. (a) Approximately $2.8 million is estimated to be available for Institutional and Cooperative project grant awards in Fiscal Year 1983. It is estimated that these funds will support approximately 12 awards. The maximum amount of an Institutional or Cooperative project grant is $300,000 for a 36-month period.

(b) Approximately $0.5 million is estimated to be available for Special project and Design project grant awards in Fiscal Year 1983. It is estimated that these funds will support approximately 10 grant awards for Special and Design projects.

The maximum amount for a Special project grant award is $150,000 for a 24-month project period. The maximum amount for a Design project grant award is $20,000 for a 12-month period.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant, unless the amount is otherwise specified by statute and regulations.

Application forms. Application forms are included in the program information packages that are expected to be ready for mailing in September, 1982. Interested persons may obtain program information packages by writing to the U.S. Department of Education, Office of Postseconday Education, Fund for the Improvement of Postsecondary Education, Attention: 84.120A, 400 Maryland Avenue, SW., (Room 3100, ROB–3), Washington, D.C. 20202.

Applicable Regulations. Regulations applicable to this program include the following:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77 and 78; and

(2) Regulations governing the Minority Institutions Science Improvement Program (34 CFR Part 637).

Further Information. For further information, contact the U.S. Department of Education, Office of Postsecondary Education, Fund for the Improvement of Postsecondary Education, regarding the Minority Institutions Science Improvement Program. Telephone: (202) 245–8100.

(Catalog of Federal Domestic Assistance No. 84–120A, Minority Institutions Science Improvement Program)

Dated: September 21, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82–26629 Filed 9–27–82; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3042–001]

Arkansas Electric Cooperative Corporation, C & L Electric Cooperative, Inc. and Riceland Electric Cooperative, Inc.; Application for License (Over 5 MW)

September 23, 1982.

Take notice that Arkansas Electric Cooperative Corporation, C & L Electric Cooperative, Inc. and Riceland Electric Cooperative, Inc. (Applicant) filed on June 14, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Lock and Dam No. 5 Project No. 3042. The project would be located on the Arkansas River near Pine Bluff, in Jefferson County, Arkansas. Corresponding with the Applicant should be directed to: Joe R. Moody, Jr., P.E., Benham-Holway Power Group, 5300 South Yale Avenue, Tulsa, Oklahoma 74135.

Project Description—The proposed project would utilize the existing Lock and Dam No. 5 and the resulting pool and under the jurisdiction of the Corps of Engineers and would consist of: (1) a new reinforced concrete powerhouse, 210 feet wide and 200 feet long, with an enclosed work area 45 by 75 feet on the south side of the powerhouse; (2) four horizontal shaft, bulb turbine/generator units each rated at 9.0 MW; (3) new headrace and tailrace channels; (4) a new 115-kV transmission line four miles long leading to the existing White Bluff Switchyard; and (5) appurtenant mechanical and electrical equipment.

This license application was filed during the term of the Applicant's preliminary permit for Project No. 3042.

Purpose of Project—The average annual generation of 140 million kWh will be utilized by the Applicant in its distribution system.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 9, 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. Filing 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 Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 29, 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 "MOTION 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 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. 82–26593 Filed 9–27–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL82–18–000]

Cities of Campbell and Thayer, Missouri; Order Granting Intervention, Denying Request for Declaratory Judgment, and Terminating Docket

Issued September 22, 1982.

Before Commissioners: C. M. Butler III, Chairman; Georgiana Sheldon, J. David Hughes and A. G. Sousa. Electric Rates: Complaint; Intervention; *Mobile-Sierra*.

On May 18, 1982, the Cities of Campbell and Thayer, Missouri (Cities) filed a complaint seeking a declaratory judgment that, as to these customers, the Commission was without jurisdiction to accept for filing an Arkansas Power & Light Company (AP&L) unilateral rate increase previously submitted in *Arkansas Power & Light Company*, Docket No. ER81–577–000, and that the rate filing is therefore illegal. Cities contend, in essence, that the contracts for service by AP&L to Cities do not permit unilateral rate filings under the *Mobile-Sierra* doctrine.[1]

Notice of the Cities' request was published in the **Federal Register** with responses due on or before July 21, 1982. On June 17, 1982, AP&L filed a motion requesting rejection of the Cities' complaint as procedurally defective and barred by *res judicata*. On June 25, 1982, the Cities filed an answer to AP&Ls motion urging the Commission to grant its original request because AP&L had failed to satisfy or answer the Cities' complaint within thirty days as required by the Commission's regulations. On July 21, 1982, AP&L filed a petition to intervene and protest reiterating its position that the complaint should be rejected because it is procedurally defective and because it is barred by principles of *res judicata*. On August 6, 1982, the Cities filed an answer which essentially repeats their earlier arguments.

Discussion

Intially, the Commission finds that participation in this proceeding by AP&L is in the public interest, and, therefore, the petition to intervene will be granted.

On June 30, 1981, AP&L tendered for filing the rate increase at issue here. The Cities petitioned to intervene but did not then raise any *Mobile-Sierra* claims. By order issued August 28, 1982, the Commission accepted the rates for filing and made them effective, subject to refund, following suspension.[2]

On December 30, 1981, the Cities filed a request to modify the Commission's August 28, 1981 suspension order and to reject AP&L's filing under the *Mobile-Sierra* doctrine. The Commission reviewed the contract language and, by order issued March 3, 1982, found that the contract permitted unilateral rate changes.[3] By pleadings filed on April 5, 1982, the Cities sought rehearing of that order. Initially, by order issued May 5, 1982, the Commission denied rehearing for failure to timely file and because the application for rehearing presented no new facts, circumstances, or arguments that would warrant reconsideration.[4] The Cities filed their complaint in the instant docket following the May 5 denial of rehearing.

Subsequently, on June 4, 1982, the Cities filed an application for rehearing of the Commission's May 5, 1982 order. The Commission, noting that when it has issued the May 5 order, it had been unaware of a pleading filed by the Cities on April 5, 1982, agreed to reconsider its earlier orders of March 3, 1982, and May 5, 1982. By order issued July 6, 1982, the Commission found that the Cities should be allowed an opportunity to present extrinsic evidence to explain or interpret the contract terms at issue. Accordingly, the Commission stayed its order of March 3, 1982, pending hearing and decision on the Cities' *Mobile-Sierra* claims.[5]

As a result of the foregoing series of pleadings and orders, the matters raised by the Cities in their complaint have already been considered by the Commission and a suitable forum to hear their *Mobile-Sierra* claims has been provided in Docket No. ER81–577–000. Moreover, the Cities will have the full protection of the refund obligation imposed on AP&L in that docket should they prevail. In view of our decision in Docket No. ER81–577–000 to provide an opportunity for hearing as to the *Mobile-Sierra* question, the Cities' complaint in this docket is moot. Accordingly, we shall deny the request for declaratory relief without prejudice and we need not address the various procedural requests of the Cities and AP&L concerning the validity of the complaint or the answer.

The Commission orders:

(A) The Cities' request in this docket for the Commission to issue a declaratory judgment is hereby denied.

(B) The petition to intervene in this proceeding is hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act.

(C) Docket No. EL82–18–000 is hereby terminated.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

---

[1] *See United Gas Pipeline Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[2] *Arkansas Power & Light Co.*, 16 FERC ¶ 61,150 (1981); rehearing denied 18 FERC ¶ 61,151 (1982).

[3] *Arkansas Power & Light Co.*, 18 FERC ¶ 61,209 (1982).

[4] *Arkansas Power & Light Co.*, 19 FERC ¶ 61,115 (1982).

[5] *Arkansas Power & Light Co.*, 20 FERC ¶ 61,013 (1982).

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26607 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6602-000]

D. J. Pitman International Corp.; Application for Preliminary Permit

September 23, 1982.

Take notice that D. J. Pitman International Corporation (Applicant) filed on August 17, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6602 to be known as the Macallen Dam Project located on the Lamprey River in Rockingham County, New Hampshire. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Donald J. Pitman, President, D. J. Pitman International Corporation, 7–A Lexington Street, Dover, New Hampshire 03820.

run-of-river project would consist of: (1) the existing Macallen Dam 150 feet long and 27 feet high, owned by Essex Group, Inc.; (2) a reservoir with negligible storage capacity and a water surface elevation of 40 feet m.s.l.; (3) a new 200-foot-long penstock; (4) a new powerhouse with an installed capacity of 750 kW; (5) a 250-foot-long transmission line; and (6) other appurtenances. Applicant estimates an average annual generation of 3,500,000 kWh. Project energy would 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 2 years during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $3,650.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before December 7, 1982, the competing application itself [see: 18 CFR 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary 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 filed with the Commission on or before November 26, 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 file 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 Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 Fed. Reg. 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 26, 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 "MOTION 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 S. 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 motion 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. 82-26594 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-509-000]

Esperanza Transmission Co.; Application

September 23, 1982.

Take notice that on August 23, 1982, Esperanza Transmission Company (Applicant), P.O. Box 2447, Corpus Christi, Texas 78403, filed in Docket No. CP82–509–000 an application pursuant to Section 311(a) of the Natural Gas Policy Act of 1978 (NGPA) and Section 284.127 of the Regulations for authorization to transport natural gas through its intrastate facilities on behalf of Natural Gas Pipeline Company of America (NGPL) for more than two years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is an intrastate pipeline company within the meaning of the NGPA and that it owns and operates an intrastate natural gas pipeline system within the State of Texas. Applicant indicates that NGPL has agreed to sell natural gas to Southwestern Electric Power Company (SWEPCO) for use in SWEPCO's Wilkes Plant located in Marion County, Texas. Since NGPL's pipeline system is not connected to SWEPCO's Wilkes Plant, Applicant states it has agreed to transport the gas to the plant on behalf of NGPL. In order to implement the transportation agreement, Applicant and Transok Pipe Line Company (Transok), another intrastate pipeline company, would jointly construct and operate approximately 11 miles of 14-inch pipeline to transport gas from NGPL's system in Marion County, Texas, to SWEPCO's Wilkes Plant, also in Marion County, Texas.

Applicant proposes to transport gas for NFPL on a limited firm basis for a period ending December 31, 1988. Applicant avers that the term of the transportation agreement between NGPL and Applicant is co-extensive with the term of the sales agreement between NGPL and SWEPCO. For such service Applicant would charge NGPL an initial rate of 15.0 cents per million Btu delivered by Applicant to the Wilkes Plant.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 14, 1982, file with the Federal Energy

Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). 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 motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26595 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6682-000]

F&T Services Corporation; Application for Preliminary Permit

September 24, 1982.

Take notice that F&T Services Corporation (Applicant) filed on September 8, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for Project No. 6682 to be known as the Columbia Project located on the Ouachita River in Caldwell Parish, Louisiana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. J. B. Lancaster, Jr., F&T Services Corporation, P.O. Box 64884, Baton Rouge, Louisiana 70896.

Project Description—The proposed project would utilize the U.S. Army Corps of Engineers' Columbia Lock and Dam. The project would consist of a powerplant built adjacent to the dam that would include two to five bulb or tube-type turbine/generator having a total rated capacity from 25 to 75 MW. Average annual generation would range up to 385,000,000 kWh. Energy produced at the project would be sold to a local utility.

Proposed Scope of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geologic investigations, coordinate studies with the U.S. Army Corps of Engineers, 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 less $20,000.

Competing Applications—Any desiring to file a competing application for preliminary permit must file with the Commission, on or before January 3, 1983, the competing application intent to file a competing application for preliminary permit will not be accepted filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before December 3, 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 file 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 Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211, or 385.214, 47 Fed. Reg. 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before December 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 "MOTION 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, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion 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. 82-26596 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5470-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

September 24, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the North Meadow Creek Project, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 5470 was issued on February 26, 1982, and would have expired on July 31, 1983. The project would have been located on Meadow Creek in Lincoln County, Montana.

Homestake Consulting and Investments, Inc. stated that its preliminary feasibility studies indicate that the project is not economically feasible.

Homestake Consulting and Investments, Inc. filed the request for Project No. 5470 on August 30, 1982, and the surrender of Project No. 5470 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26597 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5477-001, Project No. 5480-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permits

September 24, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the Whitetail Creek Project and Pheasant Creek Project, has requested that its preliminary permits be terminated. The preliminary permits for Projects Nos. 5477 and 5480 were issued on February 17, 1982, and April 13, 1982, and would have expired on August 1, 1983, and October 1, 1983, respectively. The projects would have been located

on Whitetail Creek and Pheasant Creek in Lincoln County, Montana.

Homestake Consulting and Investments, Inc. stated that its preliminary feasibility studies indicate that the projects are not economically feasible.

Homestake Consulting and Investments, Inc. filed the requests for Projects Nos. 5477 and 5480 on August 25, 1982, and the surrender of Projects Nos. 5477 and 5480 have been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26596 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-673-000]

Kentucky Utilities Company; Order Accepting for Filing and Suspending Rates, Noting Interventions, Denying Motions for Rejection and Summary Disposition, and Establishing Hearing and Price Squeeze Procedures

Issued September 22, 1982.

Before Commissioners: C. M. Butler III, Chairman; Georgiana Sheldon, J. David Hughes and A. G. Sousa. Electric Rates: Suspension; Intervention; Summary Disposition; Price Squeeze.

On July 23, 1982, Kentucky Utilities Company (KU) tendered for filing a proposed two-step increase in rates for firm and interruptible service to fourteen wholesale customers.[1] The proposed step-one rates would result in an increase in revenues of approximately $4.9 million (5.8%) for the twelve months ending September 30, 1982. The step-two rates would increase revenues by an additional $2.0 million (3.0%). KU requests that, in the event the Commission concludes that the step-two rates should be suspended for a period of more than one day, the alternate step-one rates be made effective on September 22, 1982.[2] It requests that the step-two rates be made effective on September 23, 1982.

Notice of the filing was published in the **Federal Register** with comments due on or before Augsut 23, 1982. On August 23, 1982, a group of Kentucky municipalities (Municipalities)[3] filed a protest, motion to intervene, motion to reject, and motion for summary judgment.[4] The Municipalities request rejection of KU's step-two increase and suspension of its step-one increase for five months or, alternatively, rejection of step-one increase and suspension of the step-two increase for five months. In support of this motion, the Municipalities contend that, except in unusual circumstances, such phased rate increases violate section 205 of the Federal Power Act and represent an effort to nullify the purposes of the suspension policy enunciated in *West Texas Utilities Company*, Docket No. ER82-23-000 (February 26, 1982). They argue that the purpose of that policy is to provide an incentive to utilize to file cost-justified rate increases. If phased rate increases are permitted, according to the Municipalities, a utility has no incentive to file cost-justified step-two rate increases. They urge that the step-two increase has no cost support and should be rejected.

The Municipalities also request summary disposition with respect to (1) a minimum bill provision incorporating a 100% demand ratchet, and (2) a rate schedule provision which provides for a upward adjustment in demand billings where a customer's power factor is less than 90%. In addition, the Municipalities raise a variety of cost of service issues,[5] allege that the proposed rates are unduly discriminatory and will cause a price squeeze, and challenge certain terms and conditions of service as unjust and unreasonable.

Jackson Purchase Electric Cooperative Corporation (Jackson Purchase) also filed a timely protest, motion to intervene, request for summary judgment, or in the alternative, for a five month suspension. Jackson Purchase argues that the stepped increase is an attempt to circumvent the suspension policy of this Commission and should be rejected. In support of its alternative request for a five month suspension, Jackson Purchase contends that a number of adjustments to KU's cost of service study are required.[6] Jackson Purchase also requests summary disposition to require KU to allocate transmission costs on a rolled-in basis.

The City of Paris, Kentucky (Paris) filed a timely protest and motion to intervene. Paris also seeks a maximum suspension, objecting to KU's allocation of cost and rate base items, its requested rate of return, and an increase in capacity deficiency charges. On September 2, 1982, KU filed an answer to the pleadings of the Municipalities, Jackson Purchase, and Paris, in which it responded to all their allegations.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR § 385.214), timely motions to intervene serve to make the Municipalities, Paris, and Jackson Purchase parties to this proceeding absent opposition within 15 days of their pleadings. The Commission also finds that participation in this proceeding by the City of Bardstown, Kentucky is in the public interest and that good cause exists to permit that customer to intervene as part of the Municipal customer class.

We note that the Municipalities and Jackson Purchase have objected to KU's efforts to phase the instant rate increase. However, we find that KU's submittal substantially complies with the Commission's regulations[7] and that the phased filing does not contravene the filing requirements of the Federal Power Act. Therefore, consistent with prior orders permitting such phasing,[8] we shall deny the motions to reject.

As noted, the Municipalities' request summary disposition as to KU's minimum bill provision and power factor charge. We believe, however, that these issues present questions of law or fact which should be resolved on the basis of an evidentiary hearing.[9] Similarly, Jackson Purchase's request for summary disposition regarding KU's allocation methodology also raises questions which should be addressed at hearing. Therefore, summary disposition will be denied.

Our preliminary review of KU's filing and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly

---

[1] *See* Attachment A for customers and rate schedule designations.

[2] If the step-two rates are suspended for only one day, the step-one rates are to be deemed withdrawn.

[3] The Cities of Barbourville, Benham, Cordin, Falmouth, Madisonville, and Providence, Kentucky, the Electric Water Plant Board of Frankfort, Kentucky, and Berea College.

[4] On August 30, the Municipalities requested that the City of Bardstown be included as a member of the municipal group and as an intervenor.

[5] These issues include: (1) improper rate design; (2) erroneous demand and energy forecasts; (3) improper demand allocation factors; (4) understated off-system sales in Period II; (5) excessive O&M expenses; (6) excessive rates of return; (7) an improper amortization period for deferred tax reserves; (8) overstated depreciation expense and cash working capital, and (9) an improper income tax calculation.

[6] Jackson Purchase raises several of the cost of service issues addressed by the Municipals; and, in addition, raises the following issues: (1) direct assignment of transmission facilities; (2) allocation of pollution control CWIP to Jackson Purchase.

[7] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

[8] *See, e.g., Indiana & Michigan Electric Company*, 20 FERC ¶ 61,079 (1982); *Jersey Central Power and Light Company*, 19 FERC ¶ 61,208 (1982).

[9] We note that these rate schedule provisions have previously been filed by KU and are issues in a pending proceeding in Docket No. ER81-341-000.

discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Company, supra,* we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas.* Our preliminary review indicates that KU's proposed step-one increase may not yield substantially excessive revenues. Under these circumstances, we shall suspend the step-one rates for one day to become effective, subject to refund, on September 23, 1982. With respect to KU's step-two rates, however, preliminary review suggests that the proposed increase may yield substantially excessive revenues. Accordingly, we shall suspend KU's proposed step-two rates for five months, to become effective, subject to refund, on February 22, 1982.

In light of the intervenors' price squeeze allegations, we shall institute price squeeze procedures and phase those procedures in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company,* Docket No. ER79-339 (August 6, 1979).

As a final matter, the Commission observes that KU has utilized full tax normalization with respect to Accelerated Cost Recovery System (ACRS) property. According to our review, it appears that the instant filing reflects a normalization method of accounting for all post-1980 property additions, that KU's cost of service correctly reflects the effects of normalization, and that KU's submittal satisfies the requirements of the Economic Tax Recovery Act of 1981.

The Commission orders:

(A) The motions to reject KU's filing or to summarily resolve issues are hereby denied.

(B) KU's proposed step-one and step-two rates are hereby accepted for filing; the step-one rates are suspended for one day from 60 days after filing, to become effective, subject to refund, on September 23, 1982, and the step-two rates are suspended for five months from sixty days after filing, to become effective, subject to refund, on February 22, 1983.

(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 KU's rates.

(D) The City of Bardstown, Kentucky's petition to intervene in this proceeding is hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act.

(E) The Commission staff shall serve top sheets in this proceeding on or before October 4, 1982.

(F) 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, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(H) The Secretary shall promptly publish this order in the Federal Register.

Kenneth F. Plumb,

Secretary.

KENTUCKY UTILITIES—DOCKET NO. ER82-673-000

[Rate schedule designations—Phase I Rates]

Designation	Description	Other party
(1) Supplement No. 3 to Supplement No. 3 to Rate Schedule FERC Nos. 125-144 (Supersedes Supplement No. 2 to Supplement No. 3 as supplemented).	WPS-82A(JP)	Jackson Purchase.
(2) Supplement No. 4 to Rate Schedule FERC No. 146 (Supersedes Supplement No. 3 as supplemented)	WPS-82A(M)	Barbourville.
(3) Supplement No. 4 to Rate Schedule FERC No. 147 (Supersedes Supplement No. 3 as supplemented)	WPS-82A(M)	Bardstown.
(4) Supplement No. 4 to Rate Schedule FERC No. 148 (Supersedes Supplement No. 3 as supplemented)	WPS-82A(M)	Bardwell.
(5) Supplement No. 4 to Rate Schedule FERC No. 149 (Supersedes Supplement No. 3 as supplemented)	WPS-82A(M)	Benham.
(6) Supplement No. 4 to Rate Schedule FERC No. 150 (Supersedes Supplement No. 3 as supplemented)	WPS-82A(M)	Corbin.
(7) Supplement No. 4 to Rate Schedule FERC No. 151 (Supersedes Supplement No. 3 as supplemented)	WPS-82A(M)	Falmouth.
(8) Supplement No. 4 to Rate Schedule FERC No. 152 (Supersedes Supplement No. 3 as supplemented)	WPS-82A(M)	Frankfort.
(9) Supplement No. 4 to Rate Schedule FERC Nos. 153-156 (Supersedes Supplement No. 3 as supplemented)	WPS-82(M)	Madisonville.
(10) Supplement No. 4 to Rate Schedule FERC No. 157 (Supersedes Supplement No. 3 as supplemented)	WPS-82(M)	Nicholasville.
(11) Supplement No. 4 to Rate Schedule FERC No. 158 & 159 (Supersedes Supplement No. 3 as supplemented)	WPS-82(M)	Providence.
(12) Supplement No. 3 to Rate Schedule FERC No. 160 (Supersedes Supplement No. 1 as supplemented)	WPS-82(M)	Berea College.
(13) Supplement No. 3 to Rate Schedule FERC No. 161 & 162 (Supersedes Supplement No. 1 as supplemented)	WPS-82(M)	Madisonville.
(14) Supplement No. 3 to Rate Schedule FERC No. 163 (Supersedes Supplement No. 1 as supplemented)	WPS-82(M)	Nicholasville.
(15) Supplement No. 4 to Rate Schedule FERC No. 164 (Supersedes Supplement No. 1 as supplemented)	WPS-82(M)	Old Dominion.
(16) Supplement No. 3 to Rate Schedule FERC No. 165 (Supersedes Supplement No. 1 as supplemented)	WPS-82(M)	Old Dominion.
(17) Supplement No. 6 to Rate Schedule FPC No. 83 (Supersedes Supplement No. 4)	(P1-A)	Paris.
(18) Supplement No. 4 to Supplement No. 3 to Rate Schedule FERC Nos. 124-144 (Supersedes Supplement No. 3 to Supplement No. 3)	WPS-82	Jackson Purchase.
(19) Supplement No. 5 to Rate Schedule FERC No. 16 (Supersedes Supplement No. 4)	WPS-82(M)	Barbourville.
(20) Supplement No. 5 to Rate Schedule FERC No. 147 (Supersedes Supplement No. 4)	WPS-82(M)	Bardstown.
(21) Supplement No. 5 to Rate Schedule FERC No. 148 (Supersedes Supplement No. 4)	WPS-82(M)	Bardwell.
(22) Supplement No. 5 to Rate Schedule FERC No. 149 (Supersedes Supplement No. 4)	WPS-82(M)	Benham.
(23) Supplement No. 5 to Rate Schedule FERC No. 150 (Supersedes Supplement No. 4)	WPS-82(M)	Corbin.
(24) Supplement No. 5 to Rate Schedule FERC No. 151 (Supersedes Supplement No. 4)	WPS-82(M)	Falmouth.
(25) Supplement No. 5 to Rate Schedule FERC No. 152 (Supersedes Supplement No. 4)	WPS-8(M)	Frankfort.
(26) Supplement No. 5 to Rate Schedule FERC Nos. 153-156 (Supersedes Supplement No. 4)	WPS-8(M)	Madisonville.
(27) Supplement No. 5 to Rate Schedule FERC No. 157 (Supersedes Supplement No. 4)	WPS-8(M)	Nicholasville.
(28) Supplement No. 5 to Rate Schedule FERC Nos. 158 & 159 (Supersedes Supplement No. 4)	WPS-8(M)	Providence.
(29) Supplement No. 4 to Rate Schedule FERC No. 160 (Supersedes Supplement No. 3)	WPS-8(M)	Berea College.
(30) Supplement No. 4 to Rate Schedule FERC Nos. 161 & 162 (Supersedes Supplement No. 3)	WPS-8(M)	Madison.

KENTUCKY UTILITIES—DOCKET NO. ER82-673-000—Continued

[Rate schedule designations—Phase I Rates]

Designation	Description	Other party
(31) Supplement No. 4 to Rate Schedule FERC No. 163 (Supersedes Supplement No. 3)	WPS-8(M)	Nicholasville.
(32) Supplement No. 5 to Rate Schedule FERC No. 164 (Supersedes Supplement No. 4)	WPS-8(M)	Old Dominion.
(33) Supplement No. 4 to Rate Schedule FERC No. 164 (Supersedes Supplement No. 4)	WPS-8(M)	Old Dominion.
(34) Supplement No. 7 to Rate Schedule FPC No. 83 (Supersedes Supplement No. 6)	(P2)	Paris.

[FR Doc. 82-26608 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4684-001]

Long Lake Energy Corporation; Application for License (5 NW of Less)

September 23, 1982

Take notice that Long Lake Energy Corporation (Applicant) filed on February 10, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for construction and operation of a water power project to be known as Stillwater/Lock C-4 Dam Project No. 4684. The project would be located on the Hudson River and Champlain canal in Saratoga and Rensselaer Counties, New York, Correspondence with the Applicant should be directed to: Paul J. Elston, 420 Lexington Ave. Suite 320, New York, New York 10170.

Project Description—The proposed project would consist of: (1) the existing Niagara Mohawk Power Corporation Lock 4 Dam, a concrete gravity structure 5 feet high and 800 feet long; (2) a second existing Dam connecting two Islands south of the Lock Dam is 5 feet high and 320 feet long and owned by the New York State Department of Transportation; (3) the existing Lock 4 is owned by the New York State Department of Transportation; (4) a reservoir having, a mean surface elevation of 82.4 feet msl, a surface area of 1500 acres, and a storage capacity of 14,220 acre-feet; (5) a new intake structure; (6) a new power canal 1500 feet long; (7) a new powerhouse having 2 units with a generating capacity of 4.98 MW; (8) a new tailrace 845 feet long with a bottom width of 160 feet; (9) a new switch yard; (10) a new 34.5-kv transmission line 2,500 feet long; (11) a new access road and; (12) appurtement facilities. The Applicant estimates the average annual energy production would be 30,600,000 kW-hrs and estimates that the cost of the project would be $14,685,000. The Applicant also plans to construct a temporary cofferdam to allow for the construction of the power canal and tailrace in the dry.

Purpose of Project—Project energy would be sold to Niagara Mohawk Power Corporation.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issue of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it wil be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must file with the Commission, on or before November 26, 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. Filing 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) of § 4.101 et. seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 Fed. Reg. 19025-25 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before November 26 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","PROTEST", or "MOTION 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 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. 82-26559 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3183-001]

Massachusetts Municipal Wholesale Electric Company and Connecticut Municipal Electric Energy Cooperative; Surrender of Preliminary Permit

September 24, 1982.

Take notice that Massachusetts Municipal Wholesale Electric Company and Connecticut Municipal Electric Energy Cooperative, Permittee for the proposed Warehouse Point Project No. 3183 filed a request on September 10, 1982, that its preliminary permit be terminated. The preliminary permit was issued on July 28, 1981, and would have expired on June 30, 1984. The project would have been located on the Connecticut River, in Hartford County, Connecticut. Permittee indicated that the project would not be economically feasible to develop.

The surrender of the permit is in the public interest. Therefore, the surrender of the preliminary permit for Project No.

3183 is accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26600 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5835-000]

Pennsylvania Hydro-Electric Development Corporation; Application for License (5 NW or Less)

September 23, 1982.

Take notice that Pennsylvania Hydro-Electric Development Corporation (Applicant) filed on December 31, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Felix Water Power Project No. 5835. This application for license was filed during the term of the Applicant's preliminary permit for Project No. 2803. The project would be located on the Schuylkill River in Berks County, Pennsylvania. Correspondence with the Applicant should be directed to: Mr. Larry Gleeson, President, Pennsylvania Hydro-Electric Development Corporation, Suite 213, Continental Offices, P.O. Box 814, King of Prussia, Pennsylvania 19406.

Project Description—The proposed project would be run-of-the-river and would consist of: (1) the existing Felix Dam, approximately 450 feet long and 24 feet high, constructed of rock-filled timber cribs with spillway crest elevation at 237.5 feet m.s.l.; (2) a reservoir having minimal pondage; (3) an existing navigation lock to be rehabilitated, gated, and used to transport flows to the powerhouse intake structure; (4) a new powerhouse containing a turbine-generator unit having a total rated capacity of 1,500 kW; (5) a tailrace with re-entry to the river approximately 170 feet downstream of the dam; (6) a new transmission line, approximately 1,000 feet long, connecting to existing 13.2-kV lines; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 8,000,000 kWh. Project energy would be sold to the Metropolitan Edison Company. Felix Dam is owned by the Commonwealth of Pennsylvania.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must file with the Commission, on or before November 29, 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 Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 Fed. Reg. (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 29, 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 "MOTION 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 motion 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. 82-26601 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6658-000]

Pioneer Hydro Power, Inc.; Application for Preliminary Permit

September 24, 1982.

Take notice that Pioneer Hydro Power, Inc. (Applicant) filed on August 31, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6658 to be known as the Whale Creek Hydroelectric Project located on Whale Creek, near Estacada, in Clackamas County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Messrs. Carl Rounds and K. Marshal Volpa, 1885 W. Washington Ave., Stayton, Oregon 97388.

Project Description—The proposed project would consist of: (1) a 6-foot-high by 30-foot-long diversion structure; (2) a 13,200-foot-long penstock; (3) a powerhouse to contain one impulse-type, turbine-generating unit with a rated capacity of 1,250 kW; and (4) a 200-foot-long, 12-kV transmission line. The project would be located within the boundaries of the Mt. Hood National Forest. The average annual production is about 7 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the proposed project and to file an FERC license application.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before December 6, 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 file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before December 6, 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].

Filing 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 February 4, 1983.

Agency Comments—Federal, State, and local agencies are invited to file 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 Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before December 6, 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 "MOTION 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 motion 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. 82-26602 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3013-001]

Quidnick Reservoir Association; Application for License (5 MW or Less)

September 24, 1982.

Take notice that Quidnick Reservoir Association (Applicant) filed on March 30, 1982, as amended on April 12, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Natick Dam Project No. 3013. The project would be located on the Main Branch-Pawtuxet River in Kent County, Rhode Island. The application was filed during the term of the Applicant's preliminary permit for Project No. 3013. Correspondence with the Applicant should be directed to: Steven Krous, Halliwell Associates, Inc., 865 Waterman Avenue, East Providence, Rhode Island 02914.

Project Description—The proposed project would consist of: (1) the Applicant's existing Natick Dam, 166 feet long and 19 feet high, with provisions for installation of 12-inch high flashboards; (2) a new 75-foot long headrace; (3) a new powerhouse with an installed capacity of 522 kW; (4) a new 50-foot long tailrace; and (5) other appurtenances. Applicant estimates an annual generation of 2,853,504 kWh.

Purpose of Project—Project energy would be sold to Narragansett Electric Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 3, 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. Filing 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 Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before December 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 "MOTION 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 motion 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. 82-26603 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6375-000]

Russell Biggs, Sr.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW

September 23, 1982.

Take notice that on May 27, 1982, Russell Biggs, Sr. (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 No. 6375 would be located on Slaughterhouse Gulch-Rock Creek, near Twin Falls, in Twin Falls County, Idaho. Correspondence with the Applicant should be directed to: Mr. Russell Biggs, Sr., Route #5, Box 1905, Twin Falls, Idaho 83301.

Project Description—The proposed project would consist of: (1) a 5-foot-high, 25-foot-long concrete structure; (2) a 1,000-foot-long, 30-inch-diameter penstock; (3) a powerhouse containing two generating units with a total installed capacity of 116 kW; and (4) a 300-foot-long, 12-kV transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 0.50 million 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 Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to file 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 file with the Commission, on or before November 8, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Filing 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 C.F.R. § 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d) (1980).

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 C.F.R. 385.211 or 385.214, 47 Fed. Reg. 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before November 8, 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 "MOTION 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 motion 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. 82-26604 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6441-000]

South Fork Hydroelectric; Application for Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity

September 24, 1982.

Take notice that on June 17, 1982, South Fork Hydroelectric Association 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 No. 6441 would be located on Kern River in Kern County, California. Correspondence with the Applicant should be directed to: Messrs. Carl G. and William B. Allen, 3435 Wilshire Boulevard, Suite 2320, Los Angles, California 90010.

Project Description—The proposed project would consist of: (1) a proposed 6-feet high, 135-feet long diversion structure; (2) a proposed 84-inch diameter conduit; (3) a proposed powerhouse containing 3 generating units having a total installed capacity of 3,810 kW; (4) a proposed 13.8 kV transmission line; (5) a proposed access road; and (6) appurtenant facilities. A part of the project would be located on lands owned by the U.S. Forest Service. The Applicant estimates the average annual energy output would be 19,692,000 kWh.

Purpose of Project—The power produced would be delivered to local electrical utilities, or to adjacent industrial plants.

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 Natural Resources 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—This application was filed as a competing application to Victor page and LaVerta Page's application for Project No. 4805 filed on October 2, 1981. Public notice of the filing of that application, which has already been given, established the due date for filing competing applications for licenses, exemption, or notices of intent. In accordance with the Commission's regulations, no exemptions, licenses, or notices of intent 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].

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 C.F.R. 385.211 or 385.214, 47 Fed. Reg. 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before November 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION 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 motion 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. 82-26605 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-544-000]

Southern Company Services, Inc.; Order Accepting for Filing Unit Power Sales Agreements, Granting Interventions and Waiver of Notice, and Denying Requests for Rejection and Hearing

Issued September 22, 1982.

Before Commissioners: C. M. Butler III, Chairman; Georgiana Sheldon and J. David Hughes. Electric rates: Acceptance; Intervention; Waiver of Notice.

On May 24, 1982, Southern Company Services, Inc. (SCSI), acting on behalf of its affiliates, Alabama Power Company, Gulf Power Company, Georgia Power Company, and Mississippi Power Company, tendered for filing superseding Unit Power Sales Agreements with Jacksonville Electric Authority (JEA) and Florida Power and Light Company (FP&L).[1] The proposed agreements include the same formulary rates as those which were accepted for filing in SCSI's earlier Docket No. ER81–678–000.[2] The proposed amendments differ from the orginally filed unit sales' agreements in that they provide for increases in capacity entitlements, extensions of the terms of the agreements and the inclusion of additional units from which capacity and energy would be sold to JEA and FP&L.[3] SCSI states that the proposed revenues over the twelve-month period ending December 31, 1983, would remain unchanged from the original submittal in Docket No. ER81–678–000 (approximately $152,954,900 for the sales to FP&L and approximately $136,109,900 for the sales to JEA). However, the inclusion of lower cost units is expected to result in lower total capacity charges over the life of the agreements. SCSI proposes an effective date of January 1, 1983, the same date specified for initiation of service under the originally filed unit sales agreements.

Notice of SCSI's filing was issued on June 2, 1982, with responses due by June 16, 1982. On June 16, 1982, Seminole Electric Cooperative, Inc. (Seminole) filed a protest and intervention. Seminole challenges the increased sales to FP&L and requests that the proposed amendments to the SCSIFP&L agreement be rejected to the extent that they "preclude . . . unit power purchases by FP&L from Seminole."[4] Seminole also requests a hearing concerning the lawfulness of the proposed amendments.

Seminole's requests are based on two premises. First, it is alleged that unit sales by Seminole to FP&L would be made at a lower cost than those by SCSI. SCSI's proposed arrangement would allegedly result in higher rates for Seminole, inasmuch as Seminole also purchases power from FP&L. Second, Seminole asserts that FP&L, by failing to purchase unit power from Seminole, will force Seminole to pass along the entire cost of its new generating units to its member cooperatives. This would result in a substantial increase in the cooperatives' rates, thereby hampering their ability to compete with FP&L for retail loads.

On July 1, 1982, SCSI and FP&L separately filed answers to Seminole's protest. FP&L also filed on that date an untimely intervention. In its answer, SCSI states that the Commission should deny Seminole's intervention and dismiss its protest. SCSI contends that Seminole has failed to raise any issue over which the Commission has jurisdiction and that it seeks a remedy the Commission is without authority to grant. SCSI further alleges that Seminole's filing is an abuse of process, on the ground that Seminole's allegations are completely without merit. FP&L makes essentially the same arguments, adding that even if the Commission had authority to negate the

---

[1] *See* Attachment A for Rate Schedule designations.

[2] By letter dated March 3, 1982, the Director, Office of Electric Power Regulation, accepted for filing the present formulary rates subject to the same filing and review procedures which were established in Docket No. ER80–58 for similar formulary rates filed by SCSI. In Docket No. ER80–58 the Commission, by letter dated September 14, 1981, accepted for filing a settlement agreement which included formulary rates for interchange service provided to FP&L. Under the settlement agreement, SCSI agreed to file periodic informational schedules of rates determined pursuant to the operation of the formulas with such rates subject to the Commission review and subject to refund pending that review.

[3] Under the original agreements, SCSI would sell amount varying from 650 MW to 1400 MW, between 1983 and 1992, from the following units: Scherer Unit Nos. 1–4 and Daniel Unit Nos. 1 and 2. Under the revised agreements, SCSI would sell amounts varying from 600 MW to 2500 MW, between 1983 and 1995, from the originally designated units as well as Miller Unit Nos. 1–4.

[4] Seminole is constructing two 600 MW coal-fired generating units from which such unit power purchases would be made. Seminole does not challenge the SCSI-JEA agreement.

existing contract and direct FP&L, instead, to contract with Seminole, SCSI's proposal is superior to Seminole's both in terms of economics and reliability. With respect to its intervention, FP&L states that it had no reason to intervene until it was apprised of Seminole's intervention, and that it filed its late intervention as shortly as possible thereafter.

Discussion

The Commission finds that participation in this proceeding by Seminole is in the public interest. Accordingly, its petition to intervene will be granted. The Commission further finds that good cause has been shown by FP&L for its untimely intervention, and that because of the early stage of this proceeding, its intervention will not disrupt the proceeding or burden other parties. Accordingly, its petition to intervene will be granted.

Seminole's request for rejection of SCSI's filing and for a hearing on the lawfulness of the proposed amendments must be denied. Our review indicates that the rates to FP&L are cost justified and should be accepted. Indeed, Seminole does not suggest in its pleading that the rates under SCSI's proposed agreements are unjust and unreasonable on a cost basis. With regard to the allegation that FP&L's rates to Seminole will be excessively increased by FP&L's purchases from SCSI, the gravaman of Seminole's complaint apparently is that FP&L's failure to purchase allegedly less costly power from Seminole is imprudent. We need not pass on the merits of this allegation because this proceeding is not the appropriate forum in which to pursue it. The proper forum for Seminole's complaint is in a rate case in which FP&L proposes to pass on to Seminole the allegedly imprudent costs.

As to Seminole's broad, anticompetitive allegations, they do not appear to state a claim for which there is a remedy under the Federal Power Act. While it appears that Seminole may be in a better position to compete with FP&L if FP&L purchases unit capacity from Seminole, we perceive no duty on FP&L's part, under the Federal Power Act or other applicable statutes, to purchase capacity from Seminole. We shall accordingly deny the request for a hearing since Seminole has raised no material questions of fact or law regarding the lawfulness of Southern Company's sale to FP&L.

SCSI requests waiver of the 120 day notice requirement of section 35.3 of the Commission's regulations (18 CFR 35.3) since it states that advance approval is essential to avoid the necessity of contingency planning for the construction of facilities and the supply of capacity to meet expected demand. We find good cause to grant the waiver as requested.

The Commission orders: (A) Seminole's requests for rejection of SCSI's filing and for a hearing are hereby denied.

(B) SCSI's and FP&L's requests for rejection of Seminole's intervention are hereby denied.

(C) Waiver of the 120 day notice requirement is hereby granted for good cause shown.

(D) SCSI's Amended and Restated Unit Power Sales Agreements with JEA and FP&L are hereby accepted for filing to become effective, without suspension, on January 1, 1983, as requested by SCSI.

(E) The interventions 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 matters set forth in their petitions to intervene; and *provided, further,* that the admission of said intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

SOUTHERN COMPANY SERVICES, INC., DOCKET NO. ER82-544-000; RATE SCHEDULE DESIGNATIONS

Southern Company Services, Inc.	Description	Other party
(1) Rate Schedule FERC No. 57 (Supersedes Rate Schedule FERC No. 52)	Unit Power Sales Agreement	Florida Power & Light Company
(2) Exhibit A to Rate Schedule FERC No. 57	Capacity Entitlements	Do.
(3) Supplement No. 1 to Rate Schedule FERC No. 57	Amendment No. 1	Do.
(4) Supplement No. 2 to Rate Schedule FERC No. 57	Manual	Do.
(5) Supplement No. 3 to Rate Schedule FERC No. 57 (Redesignation of Supplement No. 2 to Rate Schedule FERC No. 52).	Informational Schedules	Do.
(6) Rate Schedule FERC No. 58 (Supersedes Rate Schedule FERC No. 54)	Unit Power Sales Agreement	JEA
(7) Exhibit A to Rate Schedule FERC No. 58	Capacity Entitlements	Do.
(8) Supplement No. 1 to Rate Schedule FERC No. 58	Manual	Do.
(9) Supplement No. 2 to Rate Schedule FERC No. 58 (Redesignation of Supplement No. 2 to Rate Schedule FERC No. 54).	Informational Schedules	Do.

DESCRIPTION: CERTIFICATES OF CONCURRENCE

Filing party	Rate schedule	Supersedes rate schedule	Concurs in	Other party
(10) Alabama Power Company	FERC No. 156	FERC No. 151	(1)-(5)	FPL
(11) Alabama Power Company	FERC No. 157	FERC No. 153	(6)-(9)	JEA
(12) Georgia Power Company	FERC No. 810	FERC No. 805	(1)-(5)	FPL
(13) Georgia Power Company	FERC No. 811	FERC No. 807	(6)-(9)	JEA
(14) Gulf Power Company	FERC No. 74	FERC No. 69	(1)-(5)	FPL
(15) Gulf Power Company	FERC No. 75	FERC No. 71	(6)-(9)	JEA
(16) Mississippi Power Company	FERC No. 133	FERC No. 127	(1)-(5)	FPL
(17) Mississippi Power Company	FERC No. 134	FERC No. 129	(6)-(9)	JEA
(18) Florida Power & Light Company	FERC No. 45	FERC No. 39	(1)-(5)	SCSI

[FR Doc. 82-28609 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Doc. Nos. CP82-125-003 and CP82-125-004, et al.]

Trans—Niagara Pipeline, et al.; Intent To Prepare An Environmental Impact Statement for the Trans-Niagara Import Project and Request for Comments on Environmental Issues and the Scope of Those Issues

September 23, 1982.

In the matter of Trans-Niagara Pipeline, Algonquin Gas Transmission Company, Transcontinental Gas Pipe Line Corporation, ANR Storage Company, Great Lakes Gas Transmission Company, Texas Eastern Transmission Corporation, ANR Michigan Storage Company, Docket Nos. CP82-125-003, CP82-125-004, CP82-119-001, CP82-385-000, CP82-420-000, CP82-428-000, CP82-446-000, and CP82-478-000.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) has determined that approval of the projects proposed in the dockets listed above would constitute a major Federal action significantly affecting the quality of the human environment. Therefore, pursuant to section 2.82(b) of the Commission's rules of Practice and Procedure (18 CFR 2.82(b)), an environmental impact statement (EIS) will be prepared. The draft EIS for the Trans-Niagara Import Project will deal with the facilities proposed in these applications. It will also address alternatives to the proposed project including no action, route deviations, and system design modifications where feasible. In addition, the EIS will present comparative analysis of the Trans-Niagara Import Project as proposed and any other reasonable gas transportation system alternatives, as appropriate.

The applicants are seeking certificates of public convenience and necessity, under section 7(c) of the Natural Gas Act, authorizing construction and operation of a total of 556 miles of pipeline and 176,480 horsepower of compression and transportation and storage service. Transcontinental Gas Pipe Line Company (Transco), Texas Eastern Transmission Corporation (Texas Eastern), and Algonquin Gas Transmission Company (Algonquin) would purchase imported Canadian natural gas from TransCanada Pipelines Limited, Pan-Alberta Gas Ltd., ProGas Limited, Sulpetro Limited, and Union Gas Limited. The gas would be imported from Canada at a point on the international boundary near Niagara Falls, New York, and transported through existing and proposed facilities for sale to customers in the Northeast.[1]

Trans-Niagara Pipeline (Trans-Niagara) proposes, in Docket No. CP82-125-003, to construct 161 miles of 42-inch diameter pipeline, a dual 36-inch diameter pipeline crossing of the Niagara River, and two meter stations in New York and Pennsylvania. In addition, Trans-Niagara proposes to install under Docket No. CP82-125-004 a total of 102,000 horsepower of compression at two new compressor stations in Niagara County, New York, and Clinton County, Pennsylvania.

Under Docket No. CP82-385-000, Transco would construct 230 miles of 10-, 16-, 24-, 36-, and 42-inch diameter pipeline loop in seven segments adjacent to its existing pipeline in Pennsylvania and New Jersey. The applicant would also install a total of 16,350 horsepower of compression at two existing compressor stations in Lycoming and Luzerne Counties, Pennsylvania.

Texas Eastern requests authorization in Docket No. CP82-446-000 to construct 98-miles of 30- and 36-inch diameter pipeline loop in six segments adjacent to its existing pipelines in Pennsylvania.

In Docket No. CP82-119-001, Algonquin proposes to construct 19.2 miles of 30-inch diameter pipeline and 3.9 miles of 36-inch diameter pipeline in New Jersey and New York, respectively. Algonquin further proposes to install a total of 42,130 horsepower of compression, including two new compressor stations, in Morris County, New Jersey, and Putnam County, New York, as well as adding compression at two existing compressor stations in New York and Connecticut. Algonquin would also install four new regulator stations in Massachusetts and a meter station in Connecticut.

Great Lakes Gas Transmission Company proposes in Docket No. CP82-428-000 to construct 20.6 miles of 36-inch diameter pipeline loop in Crawford and Kalkaska Counties, Michigan, and to modify three existing metering stations in Michigan.

ANR Storage Company (Docket No. CP82-420-000) would construct 15.9 miles of 36-inch diameter pipeline adjacent to existing pipeline rights-of-way, two meter stations, and a 4,000-horsepower compressor station in Kalkaska and Grand Traverse Counties, Michigan.

Finally, ANR Michigan Storage Company (Docket No. CP82-478-000) would construct 6.5 miles of 16-inch diameter pipeline and a 12,000-horsepower compressor station. The applicant would also develop and operate the Whitewater 36/36A and Union 8/8A fields for underground storage by rehabilitating a total of 4 existing wells and drilling 19 new wells. All of these facilities would be in Grand Traverse County, Michigan.

To allow sufficient space for construction of the pipelines, construction rights-of-way up to 75 feet wide would be required. After construction, new 20- to 50-foot wide permanent rights-of-way would be maintained.

A copy of this notice and additional technical information about the proposed project have been distributed to Federal, state, and local environmental agencies, parties to the proceeding, and the public. These groups are invited to comment on anticipated environmental problems associated with the proposed projects. Comments will be used by the FERC staff to identify the issues which require in-depth environmental analysis. Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Recommendations that the EIS address specific issues should be supported by detailed rationale or a showing of the need to consider those issues. Written comments should be submitted by October 29, 1982, and reference Docket No. CP82-125-003.

Additional information about the proposals is available from Mr. Kenneth Frye, Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, telephone (202) 357-9039.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-26610 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[1] Other filings before the Commission related to these applications but which do not propose facility construction are:

1. Algonquin, Texas Eastern, and Transco, Docket No. CP82-46-001 (import);
2. Michigan Consolidated Gas Company, Docket No. CP82-502-000 (transportation, storage, continued exemption of certain facilities);
3. Texas Eastern, Docket Nos. CP82-423-000 (import) and CP82-326-000 (import);
4. Trans-Niagara Pipeline, Docket Nos. CP82-469-000 (presidential permit), CP82-125-005 (extension of import period), and CP82-125-006 (supplement); and
5. Transco, Docket Nos. CP82-125-000 (import), CP82-385-001 (supplement), and CP82-503-000 (storage).

[Volume 740]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 22, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BEREA OIL AND GAS CORPORATION			RECEIVED:	07/20/82	JA: NY				
8253379	3507	3101317068	103			L FORBES UNIT #4A	WILDCAT	12.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-A & P DRILLING CO INC			RECEIVED:	09/02/82	JA: OK				
8253318	15727	3508321875	103			RAHE #2	CRESCENT LOVELL	0.0	EASON OIL CO
-AMERICAN NAT GAS PROD CO			RECEIVED:	09/03/82	JA: OK				
8253287	15780	3501121614	103			A POPE #1-18	WATONGA TREND	109.5	DELHI GAS PIPELIN
-ARCO OIL AND GAS COMPANY			RECEIVED:	09/03/82	JA: OK				
8253296	17888	3501922472	102-4			RICKEY #1	N W OIL CITY	36.5	LONE STAR GAS CO
-BEK OIL CO INC			RECEIVED:	09/02/82	JA: OK				
8253307	15728	3511326831	103			DAVIS 2-A		255.0	PHILLIPS PETROLEU
-BILL WADLEY & SON DRILLING CO			RECEIVED:	09/03/82	JA: OK				
8253281	15625	3511100000	103			HAYLEY 3-A	WILSON	18.0	PHILLIPS PETROLEU
-CENTRAL CALIFORNIA OIL CO			RECEIVED:	09/03/82	JA: OK				
8253288	15782	3511123205	103			BLUE JAY #1	WEST OKMULGEE	36.5	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY			RECEIVED:	09/02/82	JA: OK				
8253315	15724	3507300000	103			WALKER UNIT #2	SOONER TREND	120.0	PHILLIPS PETROLEU
-CITIES SERVICE COMPANY			RECEIVED:	09/03/82	JA: OK				
8253301	20511	3514920254	107-DP			CHARTER A #1	N W BRAITHWAITE	182.5	
-CLAY MOORE			RECEIVED:	09/02/82	JA: OK				
8253317	15726	3510920555	103			G B SCOTT #1	S E GARDEN	69.0	SUN GAS CO
-CROUCH PETROLEUM COMPANY			RECEIVED:	09/02/82	JA: OK				
8253329	17868	3509120352	102-4			HENDERSON #2	S E CHECOTAH	90.0	COLUMBIA GAS TRAN
8253326	17866	3509120341	102-4			SIZEMORE #3	S E CHECOTAH	130.0	COLUMBIA GAS TRAN
8253328	17867	3509120331	102-4			TACKETT #1-23	S E CHECOTAH	110.0	COLUMBIA GAS TRAN
-CUMMINGS OIL CO			RECEIVED:	09/02/82	JA: OK				
8253322	15705	3508321876	103			CAIN #1-21	W ABELL	0.0	EASON OIL CO
8253321	15704	3508321829	103			REESE-GAMBLE #1-21	W ABELL	0.0	EASON OIL CO
-EL PASO NATURAL GAS COMPANY			RECEIVED:	09/03/82	JA: OK				
8253300	20491	3514920249	107-DP			DERBY #1	BRAITHWAITE N W UPPER	1160.0	EL PASO NATURAL G
-ENSERCH EXPLORATION INC			RECEIVED:	09/03/82	JA: OK				
8253282	15640	3504321207	103			IRENE GAMBREL #1-9	NE PUTNAM	292.0	MOBIL OIL CORP
-EXXON CORPORATION			RECEIVED:	09/02/82	JA: OK				
8253334	15681	3500722140	103			FICKEL-BANK UNIT #2	MOCANE-LAVERNE	307.0	COLORADO INTERSTA
-F C D OIL CORP			RECEIVED:	09/03/82	JA: OK				
8253284	15655	3507323435	103			RIGDON 1-11	SOONER TREND	91.3	EXXON CO USA
8253290	15789	3507323433	103			SCHICK 1-12	SOONER TREND	401.5	PHILLIPS PETROLEU
-GEORGE R BROWN			RECEIVED:	09/02/82	JA: OK				
8253330	18374	3500900000	108-ER			HAM #1	SOUTHWEST MAYFIELD	13.0	ARKANSAS LOUISIAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HAMILTON BROTHERS OIL CO									
8253325	15720	3512120861				RECEIVED: 09/02/82 JA: OK			
				103		STRANGE #1-29	WILDCAT	292.0	
-HUNTON OIL & GAS CORP						RECEIVED: 09/02/82 JA: OK			
8253309	15743	3508320990		103		KATCHER #5	SOUTH CRESCENT	0.0	CONOCO INC
-INTERNORTH INC						RECEIVED: 09/03/82 JA: OK			
8253283	15652	3500721474		103		MCCLURG #2-1	LOGAN	4.6	INTERNORTH INC
-JET OIL COMPANY						RECEIVED: 09/02/82 JA: OK			
8253319	15683	3508321753		103		THEILEN #1	ELKHORN	7.0	EASON OIL CO
-L & T OIL & GAS INC						RECEIVED: 09/02/82 JA: OK			
8253320	15700	3511921791		103		EMMONS #1	YALE-QUAY	73.0	
-L & T OIL & GAS INC						RECEIVED: 09/03/82 JA: OK			
8253277	15885	3504722802		103		LANG "33" #1	N W BROWN	2.0	
-LRF CORP						RECEIVED: 09/02/82 JA: OK			
8253316	15725	3506300000		103		HERRING #2	HILLTOP	109.5	ARKANSAS LOUISIAN
-MIDCO DRILLING INC						RECEIVED: 09/02/82 JA: OK			
8253335	15682	3507323408		103		SCHROEDER #1	NORTHEAST OKARCHE	100.0	PHILLIPS PETROLEU
-O & W OIL CO						RECEIVED: 09/03/82 JA: OK			
8253276	15883	3508121092		103		SCHOOL LAND #1	NW WELLSTON	128.2	SUN OIL CO
-O L SCOTT JR						RECEIVED: 09/03/82 JA: OK			
8253293	15758	3504722428		103		BOLAY #1	S E COVINGTON	28.0	ARCO OIL & GAS CO
-OKLAHOMA CONVEYANCE CORP						RECEIVED: 09/02/82 JA: OK			
8253332	13411	3507121441		108		A F MAYERS #1-11	PERMEAN BASIN	1.7	CITIES SERVICE GA
8253331	13410	3507121442		108		A F MAYERS #2-11	PERMEAN BASIN	5.0	CITIES SERVICE GA
8253333	13412	3507121443		108		MERHOFF #1-12	PERMEAN BASIN	2.5	CITIES SERVICE GA
-PENNACO RESOURCES CORP						RECEIVED: 09/02/82 JA: OK			
8253323	15706	3508321679		103		WINBURN #6-1	MARSHALL 66	125.0	EASON OIL CO
-PETROMARK EXPLORATION INC						RECEIVED: 09/03/82 JA: OK			
8253303	15240	3507323380		103		CASH 31-1	SOONER TREND	75.0	CITIES SERVICE GA
-PORTS OF CALL OIL CO						RECEIVED: 09/02/82 JA: OK			
8253327	16296	3510920568		102-4	103	SOUTHERN #7-2	EAST YUKON	186.0	MOBIL OIL CORP
-PORTS OF CALL OIL CO						RECEIVED: 09/03/82 JA: OK			
8253274	15878	3501722241		103		EBLING #2-1	S W YUKON	136.0	PHILLIPS PETROLEU
-RICKS EXPLORATION CO						RECEIVED: 09/03/82 JA: OK			
8253299	20428	3501521029		107-DP		ZIPSE #1	SOUTHWEST DERDON	469.0	SOUTHERN NATURAL
-SCHICK ENERGY CORP						RECEIVED: 09/02/82 JA: OK			
*8253311	15730	3509322097		103		DUFFY 8-1	RINGWOOD	100.0	RINGWOOD GATHERIN
*8253308	15729	3509322266		103		LYTLE 15-1	RINGWOOD	30.0	PIONEER GAS PRODU
-SOUTHLAND ROYALTY CO						RECEIVED: 09/03/82 JA: OK			
8253297	19297	3509322201		102-4		CALLIE WOODRING #1-29	ORION	55.0	PHILLIPS PETROLEU
8253298	19296	3509322316		102-4		CALLIE WOODRING #2-29	ORION	65.0	PHILLIPS PETROLEU
8253278	16266	3504321413		102-4	103	LEO HURT #2-6	ORION	100.0	PHILLIPS PETROLEU
8253279	16694	3504321398		102-4	103	WOODRING #5-31	ORION	50.0	PHILLIPS PETROLEU
8253280	16695	3509322472		102-4	103	WOODRING #7-31	ORION	66.0	PHILLIPS PETROLEU
-SPECTRA ENERGY CORP						RECEIVED: 09/02/82 JA: OK			
8253312	16883	3500722318		102-4		JONES #1	E ELMWOOD	0.0	
-SPELLER OIL CORP						RECEIVED: 09/03/82 JA: OK			
8253286	15779	3507321914		103		GINNY BARTON "35" #1	SOONER TREND	45.6	CONOCO INC
-STEVE JERNIGAN INC						RECEIVED: 09/02/82 JA: OK			
8253314	18884	3503920640		102-2		TIPPENS #1-21	NE CARPENTER	0.0	DELHI GAS PIPELIN
-SUPRON ENERGY CORPORATION						RECEIVED: 09/03/82 JA: OK			
8253291	15756	3509322140		103		BIERIG #1	MISSISSIPIAN	31.5	DELHI GAS PIPELIN
8253292	15757	3509322140		103		BIERIG #1	CHESTER	10.0	DELHI GAS PIPELIN
-SWALA OIL & GAS CORP						RECEIVED: 09/02/82 JA: OK			

VOLUME 740 PAGE 003

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253313	16369	3500721675		102-4	103	ANN RUSSELL #1-A	MOCANE-LAVERNE	2880.0	PANHANDLE EASTERN
-TENNECO OIL COMPANY				RECEIVED:	09/03/82	JA: OK			
8253294	15765	3507323357		103		BOLLMAN #1-30	OKARCHE N	153.0	PHILLIPS PETROLEU
-TEXOMA RESOURCES INC				RECEIVED:	09/03/82	JA: OK			
8253302	13825	3507300000		103		BRAME A #-1-24	SOONER TREND	60.0	CONOCO INC
-TXO PRODUCTION CORP				RECEIVED:	09/02/82	JA: OK			
8253306	15753	3509322370		103		CORNELSEN "A" #1	N W OKEENE	230.0	DELHI GAS PIPELIN
8253310	15752	3504321356		103		FUQUA "E" #1	N E SEILING	246.0	DELHI GAS PIPELIN
-TXO PRODUCTION CORP				RECEIVED:	09/03/82	JA: OK			
8253295	15768	3506120482		103		BLANKENSHIP A #1	WILDCAT	418.0	
8253285	15662	3504321374		103		FUQUA "F" #1	S E CETOS	328.0	DELHI GAS PIPELIN
-UNION TEXAS PETROLEUM CORP				RECEIVED:	09/03/82	JA: OK			
8253275	15879	3500320950		103		CORA MARTIN #2	HODGE I	365.0	PANHANDLE EASTERN
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	09/02/82	JA: OK			
8253324	15710	3507323311		103		HENRY 1-5		0.0	CITIES SERVICE CO
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	09/03/82	JA: OK			
8253289	15783	3504521023		103		COMMISSIONER 1-29		0.0	DELHI GAS PIPELIN
8253304	15496	3501121659		103		G F M 1-32		0.0	DELHI GAS PIPELIN
-WESSELY ENERGY CORPORATION				RECEIVED:	09/03/82	JA: OK			
8253273	15723	3504921009		103		WALTERS #1	W MAYSVILLE	19.0	WARREN PETROLEUM
**********									
TEXAS RAILROAD COMMISSION									
**********									
-PIONEER PRODUCTION CORPORATION				RECEIVED:	09/07/82	JA: TX			
8253305	F-10-030688	4229500000		108-SA		M W BROYLES #1 RRC ID 22397	MAMMOTH CREEK NORTH/C	1780.0	NORTHERN NATURAL
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	09/03/82	JA: WV			
8253345		4708505145		102-3		BLANCHE STEWART WN 12682	CLAY	10.0	GENERAL SYSTEM PU
8253344		4701900413		102-2		CHARLESTON NATIONAL BANK WN 12617	FAYETTEVILLE	101.0	GENERAL SYSTEM PU
8253363		4710300658		108		HOGE HEIRS WN-155	MANNINGTON	10.0	GENERAL SYSTEM PU
8253343		4703301419		108		J M THRASH WN-4591	UNION	6.0	GENERAL SYSTEM PU
8253365		4710900043		108		LOUP CREEK COLLIERY CO WN-8860	OCEANA	16.0	GENERAL SYSTEM PU
8253364		4710300665		108		NATHAN CROSS WN-477	MANNINGTON	4.0	GENERAL SYSTEM PU
8253366		4710900753		108		POCAHONTAS LAND CORP 12125	BARKERS RIDGE DISTRIC	6.0	GENERAL SYSTEM PU
-ENERGY DEVELOPMENT CORPORATION				RECEIVED:	09/03/82	JA: WV			
8253341		4704700813		108		EDC #16 MCD #0813	BIG SANDY	15.0	CONSOLIDATED GAS
8253342		4704700815		108		EDC #17 MCD #0815	BIG SANDY	15.0	CONSOLIDATED GAS
-FRANKLIN ADKINS				RECEIVED:	09/03/82	JA: WV			
8253338		4709921716		108		COPLEY #1	LINCOLN	4.6	COLUMBIA GAS TRAN
8253336		4709921710		108		FERGUSON #1	LINCOLN	3.7	COLUMBIA GAS TRAN
8253337		4709921712		108		MAYNARD #1	LINCOLN DISTRICT	4.3	COLUMBIA GAS TRAN
8253339		4709921717		108		STAMPER #1	LINCOLN DISTRICT	2.6	COLUMBIA GAS TRAN
-STONESTREET LANDS CO				RECEIVED:	09/03/82	JA: WV			
8253351		4701501807		103		AL TANNER #1-S-66	ELMIRA	35.0	COLUMBIA GAS TRAN
8253347		4700701568		103		B F HALL #1-S-99	ELMIRA	26.0	COLUMBIA GAS TRAN
8253354		4701501777		103		BALL - HARDMAN #3-S-81	ELMIRA	26.0	COLUMBIA GAS TRAN
8253349		4701501780		103		BALL-HARDMAN #1-S-90	ELMIRA	30.0	COLUMBIA GAS TRAN
8253357		4701303188		103		DANA EAKLE #1-S-130	ELMIRA	26.0	COLUMBIA GAS TRAN
8253350		4701501781		103		DARIUS ARNOLD #1-S-94	ELMIRA	32.0	COLUMBIA GAS TRAN
8253361		4701303225		103		DAVID HICKS #1-S-78	ELMIRA	44.0	COLUMBIA GAS TRAN
8253355		4701501778		103		F A ROGERS #1-S-87	ELMIRA	39.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8253353		4701501774		103		J A DAWSON #1-S-72
8253356		4701501718		103		JIM METHENY #1-S-55
8253359		4701303207		103		JOSIE ROSE #1-S-135
8253352		4701303206		103		MACE #1-S-111
8253346		4701501756		103		S W WILLIAMS #1-S-67
8253360		4701303297		103		SHAFFER-STARCHER #1-S-161
8253348		4701501808		103		VANDALE - SMITH #1-S-70
8253362		4701303190		103		W K DUFFIELD #1-S-133
8253358		4701303210		103		WOOD COUNTY REALTY #1-S-79
				RECEIVED:	09/03/82	JA: WV
-TWI OIL CO						
8253340		4708504763		108		INA BARNARD #1
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO						
-CHANCELLOR & RIDGEWAY				RECEIVED:	09/08/82	JA: CO 1
8253370	CD 0314-82	0510308008		108		FEDERAL 10-1
				RECEIVED:	09/08/82	JA: CO 1
-COORS ENERGY CO						
8253378	CD 0303-82	0507708314		102-2		107-TF USA 1-17JC
8253376	CD 0301-82	0507708371		102-2		107-TF USA 1-20JC
8253377	CD 0300-82	0507708393		102-2		107-TF USA 1-27CM
				RECEIVED:	09/08/82	JA: CO 1
-JEROME P MCHUGH						
8253368	CD 0393-82ER	0506706023		108-PB		UTE #2
				RECEIVED:	09/08/82	JA: CO 1
-TETON ENERGY CO INC						
8253371	CD 0321-82	0507708410		102-2		ROAN CREEK FEDERAL 25-3
				RECEIVED:	09/08/82	JA: UT 1
-BELCO PETROLEUM CORPORATION						
8253374	UD 0322-82	4304700000		108		CWU #7
8253375	UD-0323-82	4304700000		108		STAGECOACH #1
				RECEIVED:	09/08/82	JA: UT 1
-C & K PETROLEUM INC						
8253369	UD 0328-82	4303730714		102-4		SOUTH PINE RIDGE UNIT #7-6
				RECEIVED:	09/08/82	JA: UT 1
-CONOCO INC						
8253372	UD 0461-81	4304730962		107-TF		CONOCO KURIP 1 #27
8253373	UD 0351-81	4304730962		102-3		CONOCO KURIP 1 #27
				RECEIVED:	09/08/82	JA: UT 1
-J C THOMPSON						
8253367	UD 0352-82ER	4301930077		108-ER		WESTWATER UNIT E-5
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM						
-AMOCO PRODUCTION CO				RECEIVED:	09/03/82	JA: NM 4
8253230	NM-1984-81	3004524670		103		FRED FEASEL "H" #1E
				RECEIVED:	09/03/82	JA: NM 4
-BEARD OIL COMPANY						
8253236	NM-084882107	3000561143		102-4	107-TF	FEDERAL #1-25
				RECEIVED:	09/03/82	JA: NM 4
-BILLY J KNOTT						
8253247	NM-0523-82	3004509616		108		KELLY #1
				RECEIVED:	09/03/82	JA: NM 4
-CAULKINS OIL COMPANY						
8253235	NM-1123-82	3003906523		108		BREECH C 241
8253272	NM-112-82	3003606470		108		BREECH 283
				RECEIVED:	09/03/82	JA: NM 4
-CITIES SERVICE COMPANY						
8253259	NM-0666-82	3001521534		108		LITTLE BOX CANYON #1
				RECEIVED:	09/03/82	JA: NM 4
-COTTON PETROLEUM CORPORATION						
8253233	NM-1440-81	3003922218		108		APACHE #29
				RECEIVED:	09/03/82	JA: NM 4
-DOME PETROLEUM CORP						
8253253	NM 0615-82	3004320449		103		DOME NAVAJO 3-22-7 #1
				RECEIVED:	09/03/82	JA: NM 4
-EL PASO EXPLORATION CO						

VOLUME 740 PAGE 004

FIELD NAME	PROD	PURCHASER
ELMIRA	24.0	COLUMBIA GAS TRAN
ELMIRA	29.0	COLUMBIA GAS TRAN
ELMIRA	70.0	COLUMBIA GAS TRAN
ELMIRA	44.0	COLUMBIA GAS TRAN
ELMIRA	14.0	COLUMBIA GAS TRAN
ELMIRA	26.0	COLUMBIA GAS TRAN
ELMIRA	30.0	COLUMBIA GAS TRAN
ELMIRA	26.0	COLUMBIA GAS TRAN
ELMIRA	30.0	COLUMBIA GAS TRAN
BEREA	0.0	CARNEGIE NATURAL
CATHEDRAL	6.0	MOUNTAIN FUEL RES
JACKSON CANYON FEDERA	181.8	NORTHWEST PIPELIN
JACKSON CANYON FEDERA	416.1	NORTHWEST PIPELIN
CHALK MOUNTAIN FEDERA	92.3	NORTHERN NATURAL
IGNACIO BLANCO	0.0	NORTHWEST PIPELIN
COON HOLLOW	103.0	NORTHWEST PIPELIN
CHAPTIA	0.0	MOUNTAIN FUEL SUP
STAGECOACH UNIT	0.0	MOUNTAIN FUEL SUP
WILDCAT	0.0	
OURAY	110.0	MOUNTAIN FUEL SUP
OURAY	110.0	MOUNTAIN FUEL SUP
WESTWATER	0.0	NORTHWEST PIPELIN
BASIN DAKOTA	35.0	SOUTHERN UNION GA
UNDESIGNATED (ABO)	247.0	TRANSWESTERN PIPE
BLANCO MESA VERDE	14.4	EL PASO NATURAL G
SOUTH BLANCO PICTURED	14.6	GAS CO OF NEW MEX
SOUTH BLANCO PICTURED	12.2	GAS CO OF NEW MEX
BOX CANYON	3.0	EL PASO NATURAL G
SOUTH BLANCO	5.0	NORTHWEST PIPELIN
WILDCAT	16.4	SOUTHWEST GAS COR

VOLUME 740 PAGE 005

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253239	NM 0128-82PB	3003907140		108-PB		JICARILLA 119 N #6	TAPACITO-PICTURED CLI	20.0	NORTHWEST PIPELIN
-EL PASO NATURAL GAS COMPANY				RECEIVED:	09/03/82	JA: NM 4			
8253231	NM-1942-81	3003920943		108		CANYON LARGO UNIT #272	BALLARD PICTURED CLIF	22.0	EL PASO NATURAL G
8253269	NM-0682-82	3004520460		108		GRAMBLING #6	BLANCO - PICTURED CLI	20.0	EL PASO NATURAL G
8253242	NM-0125-82PB	3003920719		108-PB		SAN JUAN 27-4 UNIT #70	BASIN-DAKOTA GAS	21.0	EL PASO NATURAL G
8253267	NM-0685-82	3003907189		108		SAN JUAN 28-6 UNIT #40	BLANCO - MESA VERDE	17.0	EL PASO NATURAL G
8253268	NM-0684-82	3003920097		108		SAN JUAN 28-7 UNIT #146	SOUTH BLANCO - PICTUR	16.0	EL PASO NATURAL G
8253249	NM-0508-82	3003921733		108		SAN JUAN 28-7 UNIT #257	BASIN DAKOTA	21.0	EL PASO NATURAL G
8253241	NM-0126-82PB	3003907642		108-PB		SAN JUAN 29-7 UNIT #4	BLANCO - MESA VERDE	18.0	EL PASO NATURAL G
8253240	NM 0127-82PB	3003907793		108-PB		SAN JUAN 30-6 UNIT #11	BLANCO - MESAVERDE	16.0	EL PASO NATURAL G
-ESTORIL PRODUCING CORP				RECEIVED:	09/03/82	JA: NM 4			
8253271	NM-073282107	3000500000		102-2	107-TF	SHEEHAN FEDERAL #3	UNDESIGNATED ABO	547.5	TRANSWESTERN PIPE
-GETTY OIL COMPANY				RECEIVED:	09/03/82	JA: NM 4			
8253262	NM-0667-82	3002527603		102-2		NORTH BILBREY "7" FEDERAL #1	SOUTH SALT LAKE MORRO	273.8	EL PASO NATURAL G
-HIXON DEVELOPMENT COMPANY				RECEIVED:	09/03/82	JA: NM 4			
8253237	NM-1717-81	3004524422		108		IN NI DA PAH #1-R	WAW-FRUITLAND-PC	2.6	HIXON DEVELOPMENT
-INTEGRATED ENERGY INC				RECEIVED:	09/03/82	JA: NM 4			
8253246	NM 0536-82	3004320319		103		DOME RUSTY 20-22-7/1	RUSTY CHACRA EXTENSIO	175.9	SOUTHWEST GAS COR
8253245	NM 0535-82	3004320346		103		NAVAJO 10-22-7/1	WILDCAT	316.1	SOUTHWEST GAS COR
8253244	NM 0534-82	3004320282		103		NAVAJO 21 #1	RUSTY CHACRA EXTENSIO	171.6	SOUTHWEST GAS COR
-JACK GRYNBERG & ASSOCIATES				RECEIVED:	09/03/82	JA: NM 4			
8253217	NM-065182107	3000561302		103	107-TF	GRYNBERG 17 FED COM #1	PECOS SLOPE ABO GAS	0.0	TRANSWESTERN PIPE
-MCCLELLAN OIL CORPORATION				RECEIVED:	09/03/82	JA: NM 4			
8253270	NM-077382107	3000561435		102-2	107-TF	MCCLELLAN DANA FEDERAL #3 NM-35925	WILDCAT (ABO)	98.5	TRANSWESTERN PIPE
-MERRION OIL & GAS CORP				RECEIVED:	09/03/82	JA: NM 4			
8253211	NM-0645-82	3003900000		108		CANYON LARGO UNIT #119	DEVILS FORK GALLUP	6.0	EL PASO NATURAL G
8253208	NM-0644-82	3003900000		108		CANYON LARGO UNIT #126	DEVILS FORK GALLUP	5.0	EL PASO NATURAL G
8253209	NM-0643-82	3003900000		108		CANYON LARGO UNIT #129	DEVILS FORK GALLUP	8.0	EL PASO NATURAL G
8253266	NM-0678-82	3004523886		108		SOUTHLAND #5	WAW FRUITLAND/PICTURE	13.0	EL PASO NATURAL G
-MORRIS R ANTWEIL				RECEIVED:	09/03/82	JA: NM 4			
8253238	NM-1133-81	3002527449		103		TERRA FEDERAL #2	JALMAT YATES (ABO)	0.0	EL PASO NATURAL G
-MTS LIMITED PARTNERSHIP				RECEIVED:	09/03/82	JA: NM 4			
8253218	NM-065882107	3000561193		102-2	107-TF	CAMACK FEDERAL COM #6	PECOS SLOPE ABO	700.0	
8253224	NM-066382107	3000561359		102-2	107-TF	CAMACK FEDERAL COM #8	PECOS SLOPE ABO	370.0	
-MTS LTD PARTNERSHIP				RECEIVED:	09/03/82	JA: NM 4			
8253225	NM-066282107	3000561303		102-2	107-TF	ALKALI FEDERAL #8	UNDESIGNATED ABO	36.0	
8253222	NM-066082107	3000561444		102-2	107-TF	BITTER LAKE FEDERAL COM #1	UNDESIGNATED ABO	297.0	
8253221	NM-066182107	3000561401		102-2	107-TF	CHARLOTTE FEDERAL #2	UNDESIGNATED ABO	365.0	
8253223	NM-065982107	3000561419		102-2	107-TF	SPRING FEDERAL COM #3	UNDESIGNATED ABO	300.0	
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	09/03/82	JA: NM 4			
8253255	NM 0620-82-A	3003922860		103		GAVILAN #1 (GALLUP)	UNDESIGNATED	9.9	NORTHWEST PIPELIN
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	09/03/82	JA: NM 4			
8253250	NM 0618-82-A	3004525081		103		SAN JUAN 32-7 #76 MV	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8253251	NM 0618-82-B	3004525081		103		SAN JUAN 32-7 #76 PC	SO LOS PINOS PICTURED	71.0	NORTHWEST PIPELIN
8253254	NM 0619-82	3003922502		103		VALENCIA CANYON #1	UNDESIGNATED PICTURED	0.6	NORTHWEST PIPELIN
-SHELL OIL CO				RECEIVED:	09/03/82	JA: NM 4			
8253234	NM-0614-82	3001500000		108		HENSHAW DEEP UNIT #3Y	HENSHAW WOLFCAMP	10.4	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO				RECEIVED:	09/03/82	JA: NM 4			
8253215	NM-0655-82	3003906580		108		ARIZONA JICARILLA "B" #2	SOUTH BLANCO	13.0	GAS CO OF NEW MEX
8253210	NM-0647-82	3004520199		108		BAY MARE #1	BASIN	18.0	EL PASO NATURAL G
8253220	NM-0656-82	3004502048		108		BRUINGTON #2	BLANCO	14.0	SOUTHERN UNION GA
8253219	NM-0657-82	3004520548		108		CRANDELL #5	BLANCO	14.6	SOUTHERN UNION GA
8253204	NM-0635-82	3004573043		108		CRANDELL #7	BLANCO	15.0	SOUTHERN UNION GA

JD NO	JA DKT	API NO	B	SEC(1)	SEC(2)	WELL NAME
8253207	NM-0636-82	3004523350		108		DALSANT #2
8253214	NM-0648-82	3004511975		108		HUBBARD #2
8253206	NM-0637-82	3004511733		108		WHITLEY #8
-SUPRON ENERGY CORPORATION				RECEIVED:	09/03/82	JA: NM 4
8253261	NM 0669-82	3003921520		108		JICARILLA G 2-R
8253216	NM-0654-82	3003922040		108		JICARILLA J-17
8253263	NM-0671-82	3003922041		108		JICARILLA J-18
8253226	NM-0668-82	3003922042		108		JICARILLA J-19
8253256	NM-0627-82	3003906030		108		LEBOW - 1
8253264	NM-0670-82	3003906126		108		MCCRODEN - 1
8253257	NM-0628-82	3004511999		108		ZACHRY - 17
-TENNECO OIL COMPANY				RECEIVED:	09/03/82	JA: NM 4
8253228	NM-1768-81	3004523800		108		DELHI-TAYLOR #5E
8253227	NM-1765-81	3004523799		108		DELHI-TAYLOR #6E
8253229	NM-1767-81	3004523796		108		DELHI-TAYLOR "D" #1E
8253243	NM-1766-81	3004523797		108		DELHI-TAYLOR "E" #1E
8253205	NM 0633-82	3004525189		103		ROELOFS 4E
8253202	NM 0632-82	3004524930		103		ROELOFS2E
-W A MONCRIEF JR				RECEIVED:	09/03/82	JA: NM 4
8253232	NM 0518-82	3001523970		102-4		BALDRIDGE FEDERAL "COMM" #1
-YATES PETROLEUM CORPORATION				RECEIVED:	09/03/82	JA: NM 4
8253212	NM-065082107	3000561421		102-2	107-TF	COFFMAN "NY" FEDERAL #2
8253213	NM-064982107	3000561410		102-2	107-TF	DORIS "RI" FEDERAL #2
8253258	NM-063082102	3000561420		102-3		FEDERAL "HJ" #3
8253203	NM-063182107	3000561440		102-2	107-TF	FEDERAL "HJ" #5
8253201	NM-062982107	3000561036		102-2	107-TF	HAHN "NH" FEDERAL #3
8253252	NM-061382107	3000561371		102-2	107-TF	TECKLA "MD" FEDERAL #5
8253260	NM-066582107	3000561459		102-2	107-TF	WILLIAMSON "LC" FEDERAL #3
8253265	NM-068082107	3000561422		102-2	107-TF	WILLIAMSON "LC" FEDERAL #4
-MAJESTIC PETROLEUM INC				RECEIVED:	09/03/82	JA: OK 4
8253248	OKA 0517-82	3510121578		103		LASLEY #1 CREEK #487
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK						
-NADEL & GUSSMAN				RECEIVED:	09/08/82	JA: OK 8
8253380		3511300000		103		REED #3

OTHER PURCHASERS VOLUME NO :740

8253308 RINGWOOD GATHERING CO
8253311 PIONEER GAS PRODUCTS CO

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26611 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-C

VOLUME 740 PAGE 006

FIELD NAME	PROD	PURCHASER
BLANCO	19.0	SOUTHERN UNION GA
BASIN/BLANCO	9.0	SOUTHERN UNION GA
SOUTH BLANCO	16.0	SOUTHERN UNION GA
TAPACITO PICTURE CLIF	1.4	GAS CO OF NEW MEX
S BLANCO PICTURE CLIF	2.5	GAS CO OF NEW MEX
S BLANCO PICTURE CLIF	5.5	GAS CO OF NEW MEX
S BLANCO PICTURE CLIF	2.5	GAS CO OF NEW MEX
TAPACITO PICTURE CLIF	5.7	GAS CO OF NEW MEX
TAPACITO PICTURE CLIF	10.9	GAS CO OF NEW MEX
BASIN DAKOTA	1.1	SOUTHERN UNION GA
BASIN DAKOTA	12.0	EL PASO NATURAL G
BASIN DAKOTA	15.0	EL PASO NATURAL G
BASIN DAKOTA	15.0	EL PASO NATURAL G
BASIN DAKOTA	15.0	EL PASO NATURAL G
BASIN DAKOTA	500.0	EL PASO NATURAL G
BASIN DAKOTA	500.0	EL PASO NATURAL G
BALDRIDGE CANYON UNDE	0.0	EL PASO NATURAL G
PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
UND ABO	0.0	TRANSWESTERN PIPE
UND ABO	0.0	TRANSWESTERN PIPE
UND ABO	0.0	TRANSWESTERN PIPE
PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
SHEPPARD	109.5	EL PASO NATURAL G
GILLILAND SOUTH	1.4	PHILLIPS PETROLEU

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 22, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MONTANA BOARD OF OIL & GAS CONSERVATION									
-AMINOIL USA INC				RECEIVED:	09/07/82	JA: MT			
8253497	11-81-219A	2508321472		103		BIDEGARAY #3	RIDGELAWN	10.0	MONTANA DAKOTA UT
-CHEVRON U S A INC				RECEIVED:	09/07/82	JA: MT			
8253496	10-81-218	2509121278		103		P SOLBERG #7	FLAT LAKE	79.0	
-MIDLANDS GAS CORPORATION				RECEIVED:	09/07/82	JA: MT			
8253493	11-81-220	2507121441		108		COMPTON #1 3170	BOWDOIN	21.0	KANSAS-NEBRASKA N
8253495	1-82-3	2507121268		108		STATE #1 163F	BOWDOIN	8.0	KANSAS-NEBRASKA N
-PATRICK PETROLEUM CORP OF MICHIGAN				RECEIVED:	09/07/82	JA: MT			
8253489	11-81-231	2509121402		102-2		ANDERSON #1-5	NORTH KATY LAKE	16.0	PHILLIPS PETROLEU
8253503	11-81-229	2509121353		102-2		NYBY #1-6	NORTH KATY LAKE	37.0	PHILLIPS PETROLEU
8253500	11-81-227	2509121230		102-2		THUESEN-SORENSON #1	CLEAR LAKE	4.0	PHILLIPS PETROLEU
8253501	11-81-228	2509121363		102-2		TRONSON #1-8	COLORED CANYON	10.0	PHILLIPS PETROLEU
8253498	11-81-230	2508521257		102-2		WIKUM #1-7	ANVIL	70.0	PHILLIPS PETROLEU
-PUMA PETROLEUM CORP				RECEIVED:	09/07/82	JA: MT			
8253504	10-81-217	2508521272		102-2		DETIENNE #1-13	RED BANK	3.0	DOME PETROLEUM CO
8253507	10-81-215	2508521228		102-2		HOROB #1-20	RED BANK	21.6	DOME PETROLEUM CO
8253494	10-81-216	2508521253		102-2		HOROB #2-20	RED BANK	5.4	DOME PETROLEUM CO
-SHELL OIL CO				RECEIVED:	09/07/82	JA: MT			
8253506	11-81-225	2502521188		103		RAILROAD 24X-7	CABIN CREEK	8.7	MONTANA DAKOTA UT
8253499	11-81-226	2502521177		103		UNIT 33-8	CABIN CREEK	7.8	MONTANA DAKOTA UT
-SOUTHLAND ROYALTY CO				RECEIVED:	09/07/82	JA: MT			
8253502	11-81-222	2508321448		102-0		RICHARD HIER #1-30	UNNAMED	92.0	MGPC INC
-TEXACO INC				RECEIVED:	09/07/82	JA: MT			
8253490	11-81-235	2504122166		103		J A PESTER GAS UNIT #1 WELL #1	RUDYARD AREA	140.0	
8253491	11-81-234	2510121979		103		J W ROGERS #1	KEVIN-SUNBURST	29.2	MONTANA POWER CO
8253492	11-81-233	2510121980		103		POTLATCH O & REF NCT-1 WELL #2	PRAIRIE DELL FIELD AR	29.2	MONTANA POWER CO
8253505	11-81-232	2510121986		103		R C STEVEN #1	PRAIRIE DELL FIELD AR	29.2	MONTANA POWER CO
-WILLIAMS EXPLORATION COMPANY				RECEIVED:	09/07/82	JA: MT			
8253488	11-81-224	2509921154		102-2		FEDERAL #1-19	BLACKLEAF FEDERAL UNI	1487.0	
WEST VIRGINIA DEPARTMENT OF MINES									
-ASHLAND EXPLORATION INC				RECEIVED:	09/07/82	JA: WV			
8253515		4703501583		103		ELIZABETH W PERKINS #25-091921	NEW FIELD	21.0	CONSOLIDATED GAS
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	08/30/82	JA: WV			
8253487		4707700195		108		EDWIN WOLFE 12579	LYON DISTRICT	0.8	GENERAL SYSTEM PU
-CONTINENTAL PETROLEUM CO				RECEIVED:	09/07/82	JA: WV			
8253516		4700101662		103		HAROLD ESSIG #1	BELINGTON	20.0	COLUMBIA GAS TRAN
-JAMES F SCOTT				RECEIVED:	09/07/82	JA: WV			
8253517		4701900476		103		NICASTRO HUDDLESTON #2 SW-404	KANAWHA	16.0	ROARING FORK GAS
-PEMCO GAS INC				RECEIVED:	09/07/82	JA: WV			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253513		4701501850		103		SWARTZ #13	UNION	9.0	CONSOLIDATED GAS
8253514		4701501851		103		SWARTZ #14	UNION	9.0	CONSOLIDATED GAS
-STONESTREET LANDS CO				RECEIVED:		09/07/82 JA: WV			
8253511		4701501816		103		CHAPMAN #1-S-107	ELMIRA	24.0	COLUMBIA GAS TRAN
8253508		4701501841		103		SPENCER HALL #3-S-43	ELMIRA	20.0	COLUMBIA GAS TRAN
8253512		4701501825		103		SPENCER HALL FEE #1-S-39	ELMIRA	11.0	COLUMBIA GAS TRAN
8253509		4701501835		103		SPENCER HALL-FEE #1-S-47	ELMIRA	10.0	COLUMBIA GAS TRAN
8253510		4701501925		103		THELMA SNODGRASS #1-S-203	ELMIRA	22.0	COLUMBIA GAS TRAN
**********									
WYOMING OIL & GAS CONSERVATION COMMISSION									
**********									
-AMOCO PRODUCTION CO				RECEIVED:		09/07/82 JA: WY			
8253381	NG 30-82	4903721728		107-TF		CHAMPLIN 345 AMOCO "D" #1	ECHO SPRINGS-MESAVERD	122.0	CITIES SERVICE GA
8253480	NG 177-82	4904120214		102-2		CHAMPLIN 358 AMOCO "G" #1	BRUFF - DAKOTA	858.0	CITIES SERVICE GA
8253430	NG 124-82	4903721375		107-RT		CHAMPLIN 452 AMOCO "L" #1	SIBERIA RIDGE - MESAV	29.0	CITIES SERVICE GA
8253390	NG 77-82	4903721257		103		LOST SOLDIER UNIT #108 (DARWIN)	LOST SOLDIER - DARWIN	2.0	NORTHERN GAS CO
8253391	NG 78-82	4903721257		103		LOST SOLDIER UNIT #108 (MADISON)	LOST SOLDIER - MADISO	6.5	NORTHERN GAS CO
8253389	NG 76-82	4903721645		103		LOST SOLDIER UNIT #119 (DARWIN)	LOST SOLDIER - DARWIN	2.4	NORTHERN GAS CO
8253388	NG 75-82	4903721645		103		LOST SOLDIER UNIT #119 (MADISON)	LOST SOLDIER - MADISO	2.4	NORTHERN GAS CO
8253467	NG 162-82	4903721701		103		LOST SOLDIER UNIT #141 PRECAMBRIAN	LOST SOLDIER - PRE CA	2.9	NORTHERN GAS CO
8253387	NG 74-82	4903721539		103		LOST SOLDIER UNIT #143 (DARWIN)	LOST SOLDIER - DARWIN	2.5	NORTHERN GAS CO
8253386	NG 73-82	4903721539		103		LOST SOLDIER UNIT #143 (MADISON)	LOST SOLDIER - MADISO	2.5	NORTHERN GAS CO
8253469	NG 164-82	4903721723		103		LOST SOLDIER UNIT #155 (DARWIN)	LOST SOLDIER - (DARWI	2.8	NORTHERN GAS CO
8253468	NG 163-82	4903721723		103		LOST SOLDIER UNIT #155 (MADISON)	LOST SOLDIER - MADISO	2.8	NORTHERN GAS CO
8253470	NG 165-82	4903721820		103		LOST SOLDIER UNIT #156 (MADISON)	LOST SOLDIER - MADISO	2.5	NORTHERN GAS CO
8253428	NG 122-82	4903721609		102-2		RED DESERT UNIT #3-5 (LEWIS)	WILDCAT - LEWIS	90.0	CITIES SERVICE GA
8253429	NG 123-82	4903721609		107-TF		RED DESERT UNIT #3-5 (MESAVERDE)	WILDCAT - MESAVERDE	16.0	CITIES SERVICE GA
8253471	NG 166-82	4903721356		102-2		SEVEN MILE GULCH #7	SEVEN MILE GULCH - DA	141.6	CITIES SERVICE GA
8253486	NG 72-82	4904120380		107-TF		STATE OF WYOMING "W" #1 (FRONTIER)	BRUFF - FRONTIER	72.0	CITIES SERVICE GA
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:		09/07/82 JA: WY			
8253481	NG 179-82	4903721964		103		CPC 1-25 CHURCH BUTTES	CHURCH BUTTES	150.0	MOUNTAIN FUEL SUP
-CHEVRON U S A INC				RECEIVED:		09/07/82 JA: WY			
8253482	NG 180-82	4904120432		102-4		PRU #33-7A	EAST PAINTER RESERVOI	1095.0	NORTHERN NATURAL
-CHINOOK RESOURCES INC				RECEIVED:		09/07/82 JA: WY			
8253485	NG 183-82	4900921996		102-4		CTT 43-21	SCOTT	10.0	CHINOOK CONSTRUCT
8253484	NG 182-82	4900921951		102-4		SHARYN 21-22	SCOTT	7.2	CHINOOK CONSTRUCT
-CIG EXPLORATION INC				RECEIVED:		09/07/82 JA: WY			
8253395	NG 82-82	4901320895		103		BURL 1-7	MADDEN	176.9	COLORADO INTERSTA
8253396	NG 83-82	4901320966		103		CHEVRON 2-1	MADDEN	514.0	COLORADO INTERSTA
8253394	NG 81-82	4901320906		103		SHELTER 1-19	MADDEN	328.0	COLORADO INTERSTA
-CITIES SERVICE COMPANY				RECEIVED:		09/07/82 JA: WY			
8253420	NG 112-82	4900526247		103		HARTZOG DRAW UNIT TRACT 74 #5306	HARTZOG DRAW UNIT	54.7	PANHANDLE EASTERN
8253393	NG 80-82	4903721628		102-2		STATE "I" #1	STANDARD DRAW	154.0	
-COBRA OIL AND GAS CORPORATION				RECEIVED:		09/07/82 JA: WY			
8253417	NG 108-82	4900921955		103		WINTERMOTE "10" #1	SHAWNEE	73.0	INEXCO GASOLINE P
-COQUINA OIL CORPORATION				RECEIVED:		09/07/82 JA: WY			
8253423	NG 115-82	4901949009		103		COQUINA #1	WILDCAT - UNDESIGNATE	83.9	MOUNTAIN FUEL SUP
-DAVIS OIL COMPANY				RECEIVED:		09/07/82 JA: WY			
8253477	NG 173-82	4900922007		102-2		CONCAMP STATE #1	WILDCAT	156.4	PHILLIPS PETROLEU
8253476	NG 172-82	4900922035		103		DIXIE DEL #1	WILDCAT	10.0	PHILLIPS PETROLEU
8253415	NG 104-82	4900525871		102-2		JACK PUTNAM #1	PAYNE	66.4	BIG HORN FRACTION
8253414	NG 103-82	4900525967		103		NEWTON-BANK #1	DEVELOPMENT	2.0	PHILLIPS PETROLEU
-DIAMOND SHAMROCK CORPORATION				RECEIVED:		09/07/82 JA: WY			

VOLUME 741 PAGE 003

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253426	NG 120-82	4900927184		102-2		ACKERMAN STATE 41-16	WILDCAT	0.0	
8253416	NG 106-82	4900526223		103		HEDGEHOG STATE 1-16	PORCUPINE	20.0	PHILLIPS PETROLEU
8253427	NG 121-82	4900921841		102-2		WATERS FEE 31-21	PHILLIPS CREEK	0.0	
				RECEIVED:	09/07/82	JA: WY			
-INEXCO OIL COMPANY									
8253483	NG 181-82	4900921949		102-4		U W #1-10	SHAWNEE	60.0	INEXCO GASOLINE P
8253408	NG 96-82	4900922023		102-4		WARREN #1-11	SHAWNEE	80.0	INEXCO GASOLINE P
				RECEIVED:	09/07/82	JA: WY			
-KEE EXPLORATION INC									
8253472	NG 167-82	4900526440		103		SHARON 31-13	S-BAR	50.0	MGPC INC
				RECEIVED:	09/07/82	JA: WY			
-KERR-MCGEE CORPORATION									
8253405	NG 92-82	4900526386		103		LINDSEY #1	WILDCAT	25.0	
				RECEIVED:	09/07/82	JA: WY			
-MARATHON OIL COMPANY									
8253478	NG 175-82	4902320462		107-TF		HAM'S FORK #1-43	WILDCAT	150.0	
				RECEIVED:	09/07/82	JA: WY			
-MOSBACHER PRODUCTION CO									
8253422	NG 114-82	4902720358		102-2		MILDRED BOWEN #1	PRIVATE	120.0	
				RECEIVED:	09/07/82	JA: WY			
-MOUNTAIN FUEL SUPPLY COMPANY									
8253418	NG 110-82	4904120439		107-TF		CHURCH BUTTES UNIT #33	CHURCH BUTTES	772.0	MOUNTAIN FUEL SUP
8253419	NG 111-82	4903520620		102-2		MESA UNIT WELL #2	WILDCAT	82.0	MOUNTAIN FUEL RES
				RECEIVED:	09/07/82	JA: WY			
-PHILLIPS PETROLEUM COMPANY									
8253413	NG 102-82	4900526022		102-2		MATHESON D #1	SCHOOL CREEK	0.0	PANHANDLE EASTERN
8253412	NG 100-82	4900526093		102-2		MATHESON E #1	SCHOOL CREEK	35.3	PANHANDLE EASTERN
				RECEIVED:	09/07/82	JA: WY			
-RESOURCES INVESTMENT CORPORATION									
8253392	NG 79-82	4900526331		103		QUILLBACK #3-28	PORCUPINE	180.0	MIGC INC
				RECEIVED:	09/07/82	JA: WY			
-SNYDER OIL CO									
8253407	NG 94-82	4900720712		107-TF		GETTY STATE 1C-16-15-92	ROBBERS GULCH	500.0	NORTHWEST PIPELIN
8253406	NG 93-82	4900720646		107-TF		SUN STATE 1A-16-14-92	ROBBERS GULCH	440.0	NORTHWEST PIPELIN
				RECEIVED:	09/07/82	JA: WY			
-SOUTHLAND ROYALTY CO									
8253475	NG 170-82	4901920424		102-2		VAN IRVINE #2A	HOLLER DRAW	17.0	PHILLIPS PETROLEU
8253473	NG 168-82	4900720730		103		WESTSIDE CANAL UNIT #14	WESTSIDE CANAL UNIT	100.0	MOUNTAIN FUEL SUP
8253474	NG 169-82	4900720730		103		WESTSIDE CANAL UNIT #14	WESTSIDE CANAL UNIT	200.0	MOUNTAIN FUEL SUP
				RECEIVED:	09/07/82	JA: WY			
-SUPERIOR OIL CO									
8253385	NG 66-82	4901306210		108		DELTA #1	PILOT BUTTE SOUTH	8.3	NORTHERN GAS CO
				RECEIVED:	09/07/82	JA: WY			
-TENNECO OIL COMPANY									
8253425	NG 119-82	4903721909		102-2		AMOCO-CHAMPLIN 13-23	CAMEL ROCK	200.0	NORTHERN NATURAL
				RECEIVED:	09/07/82	JA: WY			
-TEXACO INC									
8253421	NG 113-82	4903721783		103		DELANEY RIM UNIT #12	DELANEY RIM UNIT	100.0	COLORADO INTERSTA
8253411	NG 99-82	4903721969		103		DELANEY RIM UNIT #18	DELANEY RIM UNIT	23.3	CHAMPLIN PETROLEU
8253410	NG 98-82	4903721968		103		DELANEY RIM UNIT #19	DELANEY RIM UNIT	23.3	CHAMPLIN PETROLEU
8253409	NG 97-82	4903721866		103		TABLE ROCK UNIT #48	TABLE ROCK	96.9	COLORADO INTERSTA
				RECEIVED:	09/07/82	JA: WY			
-TEXAS AMERICAN OIL CORP									
8253466	NG 161-82	4902921062		102-2		MEETEETSE #16-1	WILDCAT	2.4	TENNESSEE GAS PIP
8253424	NG 116-82	4902921068		102-2		MEETEETSE #17-1	WILDCAT	3.1	TENNESSEE GAS PIP
				RECEIVED:	09/07/82	JA: WY			
-WESTERN PRODUCTION CO									
8253459	NG 154-82	4904521278		102-4		COLLINS #2	SHURLEY	3.5	M G P C INC
8253460	NG 155-82	4904521311		102-4		COLLINS #3	SHURLEY	3.2	M G P C INC
8253461	NG 156-82	4904521389		102-4		COLLINS #4	SHURLEY	5.0	M G P C INC
8253462	NG 157-82	4904521404		102-4		COLLINS #5	SHURLEY	5.5	M G P C INC
8253463	NG 158-82	4904521465		102-4		COLLINS 6	SHURLEY	5.8	M G P C INC
8253464	NG 159-82	4904521466		102-4		COLLINS 7	SHURLEY	6.0	M G P C INC
8253465	NG 160-82	4904521506		102-4		COLLINS 9	SHURLEY	2.2	M G P C INC
8253442	NG 137-82	4904521212		102-4		FINN #10	FINN	3.6	M G P C INC
8253443	NG 138-82	4904521260		102-4		FINN #13	FINN	2.5	M G P C INC
8253444	NG 139-82	4904521308		102-4		FINN #15	FINN	3.3	M G P C INC
8253445	NG 140-82	4904521391		102-4		FINN #16	FINN	3.2	M G P C INC

VOLUME 741 PAGE 004

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253446	NG 141-82	4904505542		102-4		FINN #3	FINN	2.9	M G P C INC
8253447	NG 142-82	4904520743		102-4		FINN #4	FINN	2.9	M G P C INC
8253439	NG 134-82	4904500000		102-4		FINN #7	FINN	2.3	M G P C INC
8253440	NG 135-82	4904521210		102-4		FINN #8	FINN	1.1	M G P C INC
8253441	NG 136-82	4904521235		102-4		FINN #9	FINN	2.5	M G P C INC
8253451	NG 146-82	4904521451		102-4		GRIEVES #10	FINN	13.1	M G P C INC
8253456	NG 151-82	4904521449		102-4		GRIEVES #11	SHURLEY	4.4	M G P C INC
8253455	NG-150-82	4904521450		102-4		GRIEVES #12	SHURLEY	2.8	M G P C INC
8253452	NG 147-82	4904521540		102-4		GRIEVES #14	FINN	5.2	M G P C INC
8253457	NG 152-82	4904521602		102-4		GRIEVES #15	SHURLEY	8.0	M G P C INC
8253458	NG 153-82	4904521603		102-4		GRIEVES #16	SHURLEY	10.3	M G P C INC
8253453	NG 148-82	4904520741		102-4		GRIEVES #2	SHURLEY	5.1	M G P C INC
8253454	NG 149-82	4904521233		102-4		GRIEVES #3	SHURLEY	4.1	M G P C INC
8253448	NG 143-82	4904521310		102-4		GRIEVES #5	FINN	3.0	M G P C INC
8253449	NG 144-82	4904521329		102-4		GRIEVES #6	FINN	2.0	M G P C INC
8253450	NG 145-82	4904521403		102-4		GRIEVES #9	FINN	5.3	M G P C INC
-WOODS PETROLEUM CORPORATION				RECEIVED:	09/07/82	JA: WY			
8253432	NG 126-82	4900526165		102-4		PINE TREE UNIT #16-44	PINE TREE	1.0	WESTERN GAS PROCE
8253399	NG 86-82	4900526074		103		PINE TREE UNIT #18-29	PINE TREE	285.0	WESTERN GAS PROCE
8253400	NG 87-82	4900526074		102-4		PINE TREE UNIT #18-29	PINE TREE	285.0	WESTERN GAS PROCE
8253431	NG 125-82	4900526372		102-4		PINE TREE UNIT #20-34	PINE TREE	1.0	WESTERN GAS PROCE
8253433	NG 127-82	4900526372		103		PINE TREE UNIT #20-34	PINE TREE	1.0	WESTERN GAS PROCE
8253434	NG 128-82	4900526403		103		PINE TREE UNIT #32-45	PINE TREE	1.0	WESTERN GAS PROCE
8253435	NG 129-82	4900526403		102-4		PINE TREE UNIT #32-45	PINE TREE	1.0	WESTERN GAS PROCE
8253436	NG 130-82	4900526165		103		PINE TREE UNIT 16-44	PINE TREE	1.0	WESTERN GAS PROCE
8253437	NG 131-82	4900525404		102-4		PINE TREE UNIT 17-8	PINE TREE	21.0	WESTERN GAS PROCE
8253438	NG 132-82	4900525404		103		PINE TREE UNIT 17-8	PINE TREE	21.0	WESTERN GAS PROCE
8253397	NG 84-82	4900525927		103		PINE TREE UNIT 18-28	PINE TREE	41.0	WESTERN GAS PROCE
8253398	NG 85-82	4900525927		102-4		PINE TREE UNIT 18-28	PINE TREE	0.0	WESTERN GAS PROCE
8253401	NG-88-82	4900526330		102-4		PINE TREE UNIT 19-32	PINE TREE	280.0	WESTERN PROCESSOR
8253402	NG 89-82	4900526330		103		PINE TREE UNIT 19-32	PINE TREE	280.0	WESTERN PROCESSOR
8253382	NG 36-82	4900525780		102-4		PINE TREE UNIT 32-23	PINE TREE	0.0	WESTERN GAS PROCE
8253384	NG 35-40	4900525877		102-4		PINE TREE UNIT 7-25	PINE TREE	87.0	WESTERN GAS PROCE
8253383	NG 38-82	4900533496		102-4		PINE TREE UNIT 8-1	N PINE TREE	36.0	WESTERN GAS PROCE
8253479	NG 176-82	4903721222		102-2		STEAMBOAT MOUNTAIN UNIT #1	WILDCAT	564.0	NORTHERN NATURAL
8253403	NG 90-82	4900921868		102-4		TAYLOR BELL #12-1	UNNAMED	148.0	PHILLIPS PETROLEU
8253404	NG 91-82	4900921868		103		TAYLOR BELL #12-1	UNNAMED	148.0	PHILLIPS PETROLEU

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26612 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-C

FEDERAL MARITIME COMMISSION

[Docket No. 82-36]

Requirements for Filing Currency Adjustment Factors Reflecting Changes in the Exchange Rate of Tariff Currencies; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Docket No. 82-36 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required. Docket No. 82-36 involves a proposed rulemaking which is intended to establish a uniform procedure for publishing currency adjustment factors (CAF's) by all common carriers by water via the U.S. foreign commerce and conferences of such carriers, including non-vessel operating common carriers (NVOCC's).

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this Notice in the **Federal Register** unless petition for review is filed pursuant to 46 CFR 567.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 82-26582 Filed 9-27-82; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Canadian Cruise Lines (1982) Ltd., Suite 401, 1208 Wharf Street, Victoria, British Columbia V8W 3B9, Canada.

This Certificate expires October 3, 1982.

Dated: September 22, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-26535 Filed 9-27-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Hawkeye Bancorporation*, Des Moines, Iowa, to acquire 100 percent of the voting shares or assets of First National Bank In Lenox, Lenox, Iowa. Comments on this application must be received not later than October 22, 1982.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Atlantic Bancorporation*, Jacksonville, Florida; to acquire 100 percent of the voting shares or assets of Atlantic National Bank of Florida at Orange Park, Orange Park, Florida, a *de novo* bank. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than October 22, 1982.

Board of Governors of the Federal Reserve System, September 22, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26534 Filed 9-27-82; 8:46 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First National Boston Corporation*, Boston, Massachusetts (data processing activities; Rhode Island): To engage, through its subsidiary, FBC, Inc., in providing bookkeeping and data processing services for the internal operation of a single named financial institution and storing and processing banking, financial or related data

(including demand deposit, savings, direct and indirect installment loans, commercial loans, mortgages, general ledger and central information accounting) for such financial institution and indirectly for institutions which may enter into a data processing agreement with such institution. These activities would be conducted from an office in Pawtucket, Rhode Island serving the state of Rhode Island. Comments on this application must be received not later than October 20, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Midland Mortgage Corporation,* Detroit, Michigan (mortgage servicing activities; United States): To open a branch office in Orlando, Florida, to perform loan origination and mortgage loan servicing and accounting for Midland Mortgage Corporation throughout the United States. Comments on this application must be received not later than October 19, 1982.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Northwest Bancorporation,* Minneapolis, Minnesota (financing, servicing, leasing activities; Texas, Oklahoma, Louisiana, Arkansas, Missouri, Kansas, Tennessee, New Mexico, Arizona and Alabama): To engage through its subsidiary, Banco Financial Corporation, in making or acquiring loans or other extensions of credit such as would be made by a commercial finance company, involving commercial loans secured by borrower's inventory, accounts receivable, or other assets; servicing such loans for others; and making leases of personal property in accordance with the Board's Regulation Y. These activities would be conducted from an office in Dallas, Texas, serving Texas, Oklahoma, Louisiana, Arkansas, Missouri, Kansas, Tennessee, New Mexico, Arizona and Alabama. Comments on this application must be received not later than October 20, 1982.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation,* San Francisco, California (travelers check activities; Florida): To engage, through its indirect subsidiary, FinanceAmerica Corporation, a Florida corporation, in the activity of selling travelers checks. This activity will be conducted from a *de novo* office located at the Miami International Airport, Miami, Florida, serving the entire State of Florida. Comments on this application must be received not later than October 22, 1982.

Board of Governors of the Federal Reserve System, September 22, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26532 Filed 9-27-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta Georgia 30303:

1. *Britton & Koontz Capital Corporation,* Natchez, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shars of the successor by merger to Britton & Koontz First National Bank, Natchez, Mississippi. Comments on this application must be received not later than October 22, 1982.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. **Eitzen Independents, Inc.,** Eitzen, Minnesota; to become a bank holding company by acquiring 84.4 percent of the voting shares of Eitzen State Bank, Eitzen, Minnesota. Comments on this application must be received not later than October 22, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Green Mountain Bancorporation, Inc.,* Englewood, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Green Mountain Bank, Lakewood, Colorado. Comments on this application must be received not later than October 22, 1982.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Community Bancorporation, Inc.,* Bellville, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Bellville, Bellville, Texas. Comments on this application must be received not later than October 22, 1982.

E. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First Manitowoc Bancorp, Inc.,* Manitowoc, Wisconsin; to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank in Manitowoc, Manitowoc, Wisconsin. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than October 22, 1982.

Board of Governors of the Federal Reserve System, September 22, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26533 Filed 9-27-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Warranty Rules; Information Collection Requirement

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) for clearance of a study intended to evaluate changes which may have occurred since promulgation of the warranty rules. (16 CFR 701; 16 CFR 702; 16 CFR 703.)

SUMMARY: The purpose of this study is to gather information about consumer use, awareness, and understanding of warranties and to examine consumer expectation and experiences regarding product failure and repair performance. Results will be compared to data collected in a 1977 study to examine changes in consumer warranty experience which may have occurred since the warranty rules went into effect.

DATES: Comments on the proposed study must be submitted on or before October 28, 1982.

ADDRESS: Send comments to Ms. Nell Minow, Office of Information and

Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228 Washington, D.C. 20503. Copies of this application may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

For further information contact Thomas J. Maronick, Office of Impact Evaluation, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 724–1877.

Dated: September 22, 1982.

John H. Carley,

General Counsel.

[FR Doc. 82–26628 Filed 9–27–82; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of October.

Alcohol Biomedical Research Review Committee

October 13–15; 9:00 a.m., Embassy Square Hotel, 2000 N Street, N.W., Washington, D.C. 20036.

Open—October 13, 9:00–11:00 a.m.

Closed—Otherwise.

Contact: Harvey P. Stein, Ph.D., Executive Secretary, Alcohol Biomedical Research Review Committee, Parklawn Building, Room 16C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.

Purpose: The Alcohol Biomedical Research Review Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00–11:00 a.m., October 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Services Improvement Evaluation and Transfer Subcommittee of the Epidemiologic and Services Research Review Committee

October 18–19; 8:30 a.m., Washington Marriott Hotel, 1221 22nd Street, N.W., Washington, D.C. 20037.

Open—October 18, 8:30–9:30 a.m.

Closed—Otherwise.

Contact: Sandra Buckhalter, Parklawn Building, Room 9C–02, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4728.

Purpose: The Services Improvement Evaluation and Transfer Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and training activities in the fields of mental health services research, clinical services research, and evaluation methodology, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 8:30–9:30 a.m., October 18, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Basic Psychopharmacology Research Subcommittee of the Basic Psychopharmacology and Neuropsychology Research Review Committee

October 21–22; 9:00 a.m., the Capitol Hill Hotel, 200 C Street, S.E., Washington, D.C. 20003.

Open—October 21, 9:00–10:00 a.m.

Closed—Otherwise.

Contact: Mary Cope, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944.

Purpose: The Basic Psychopharmacology Research Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the fields of basic psychopharmacology and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Clinical Program Projects/Clinical Research Centers Subcommittee of the Treatment Development and Assessment Research Review Committee

October 28; 9:00 a.m., the Georgetown Hotel, 2121 P Street, N.W., Washington, D.C. 20036.

Open—9:00–10:00 a.m.

Closed—Otherwise.

Contact: Pamela J. Mitchell, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Clinical Program Projects/Clinical Research Centers Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of Mental Health Clinical Research Centers, clinical research program projects, and other large-scale multidisciplinary research projects, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 28, the meeting wil be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee

October 28–29; 9:00 a.m., the Georgetown Hotel, 2121 P Street, N.W., Washington, D.C. 20036.
Open—October 28, 9:00–10:00 a.m.
Closed—Otherwise.
Contact: Pamela J. Mitchell, Parklawn Building, Room 9C–18 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.
Purpose: The Psychopharmacological, Biological, and Physical Treatments Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and training activities in the fields of development and assessment of psychopharmacological, biological, and physical treatments of mental illness, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00–10:00 a.m., October 28, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).
Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIAAA: Mrs. Diana Widner, Committee Management Officer, Parklawn Building, Room 16C–18, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375. NIMH: Ms. Helen W. Garrett, Committee management Officer, Parklawn Building, Room 17C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: September 23, 1982.

Sue Simons,

Committee Management Officer Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82–26565 Filed 9–27–82; 8:45 am]
BILLING CODE 4160–20–M

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced.

Peripheral and Central Nervous System Drugs Advisory Committee

Date, time, and place. October 28 and 29, 9 a.m., Conference Rm. D, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, October 28, 9 a.m. to 10 a.m.; open committee discussion, October 28, 10 a.m. to 5 p.m., October 29, 9 a.m. to 5 p.m.; Frederick J. Abramek, National Center for Drugs and Biologics (HFD–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3800.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational drugs proposed for marketing for use in the treatment of neurological disease.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writting, on issues pending before the committee.

Open committee discussion. The committee will discuss orphan products development, phenytoin use in myotonic conditions, Bureau of Drugs advisory system (film), skeletal muscle relaxants, over-the-counter use considerations, and clinical trial design for status epilepticus.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contract person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: September 21, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–26428 Filed 9–27–82; 8:45 am]
BILLING CODE 4160–01–M

[Docket Nos. 77P–0403 et al.]

Availability of Approved Variances for Laser Light Shows

Correction

In FR Doc. 82–22232, at page 35868, in the issue of Tuesday, August 17, 1982, on page 35869, correct the table as follows:

(1) In the 23rd entry under the "Manufacturing Organization" heading correct "Place" to read "Palace" for the "Docket No." 81P–0325.

(2) In the 18th entry under the "Effecture date and termination date"

correct "Sept. 8, 1981," to read "Sept. 28, 1982," for the "Docket No." 81P-0232.

BILLING CODE 1505-01-M

[Docket No. 82N-0096; DESI No. 12152]

Drug Efficacy Study Implementation; Revocation of Exemption for an Effective Reformulated Oral Prescription Drug for Cough, Cold, or Allergy ("Paragraph XIV/Category 15"); Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 82-22197, appearing on page 35870, in the issue of Tuesday, August 17, 1982, correct the number "XIX" in the heading to read "XIV" as above.

BILLING CODE 1505-01-M

Social Security Administration

Refugee Resettlement Program; Formula for Allocation to States of FY 1982 Refugee Social Services Funds

AGENCY: Office of Refugee Resettlement, Social Security Administration, HHS.

ACTION: Final notice.

SUMMARY: This notice sets forth the formula for allocation to States of FY 1982 social services funds under the Refugee Resettlement Program (RRP). The formula yields the allocation of FY 1982 refugee social services funds for each State participating in the RRP.

EFFECTIVE DATE: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Ellen McGovern, (202) 472-6510.

SUPPLEMENTARY INFORMATION:

Discussion of Comments

Twenty-three comments were received in response to the notice of proposed formula for allocation to States of FY 1982 refugee social service funds which was published in the **Federal Register** of March 17, 1982 (47 FR 11566). The comments supported the concept of an allocation formula, but generally they disagreed with the basis or methodology of the formula.

The following sections address specific points that commenters raised, together with our responses:

Allocation Formula Methodology

Data Base

Comment: Several comments indicated that the utilization of the Immigration and Naturalization Service (INS) alien registration would underestimate the refugee population since many of the refugees failed to register at a time when INS had no reasonable way to enforce registration. Moreover the commenters said that other problems such as long waiting lines at post offices to get registration forms and scarcity of those forms, as well as existing language barriers of refugees and the inability of post office personnel to assist refugees due to this language barrier, prevented refugee registration.

Response: Based on some reactions to the formula, it appears that there is a misunderstanding about the sources of data being used in the population estimates. ORR's data system has multiple sources, of which the INS alien registration is one. The formula simply describes the process that ORR has used to develop its State population estimates, with the added restriction to persons who entered during the past three fiscal years. The INS annual registration figures are adjusted for underregistration, updated monthly with ORR's arrival data, and adjusted for secondary migration. ORR's arrival data come from the Centers for Disease Control (CDC) of the U.S. Public Health Service, which has records of all Southeast Asian refugees who have arrived in the U.S. since July 1979; the ORR Miami office, which has records on arriving Cuban refugees; and the records of new refugee arrivals from the American Council of Voluntary Agencies (ACVA) and from the nominal rolls prepared by the Intergovernmental Committee for Migration (ICM). In January 1980, out of 289,200 Southeast Asian refugees in the U.S., 253,100 registered with INS, a compliance rate of 87.5 percent. Since the population estimates were initially prepared, we have been able to validate them against the U.S. Census of April 1, 1980, and the refugee child counts collected by the Department of Education in February 1981 and October 1981. We remain confident that ORR's methodology is the best available for generating these estimates.

Comment: Other commenters said that the January 1980 INS alien registration included only some of the boat cases since these people had just begun to arrive in the U.S. Further, the total population of refugees, according to the commenters, has doubled since then so that the January 1980 registration is statistically biased in "unknown" ways.

Response: Although the Department recognizes that the INS alien registration figures have certain limitations, we believe that these data provide the best possible starting point, since no other nationwide data exist which reflect the relocation of refugees after their initial resettlement in the U.S. and which have information on the year of entry. Further, the INS annual registration figures are adjusted for underregistration, updated monthly with ORR's arrival data, and adjusted for secondary migration. Therefore the data do include subsequent boat cases.

Comment: One commenter stated that the formula may be responsive to the needs of recent arrivals for services, but it fails to take into consideration the economic condition in the State as reflected by its rate of unemployment, number of refugee cash assistance recipients, and number of medical assistance recipients. Further, the commenter suggests that serious consideration should be given to the following formula factors: (1) Estimated number of refugees in the State; (2) number of new arrivals in the State; (3) unemployment rate in the State; (4) number of cash assistance recipients in the State; and (5) number of medical assistance recipients in the State.

Response: ORR has considered using factors in addition to the number of refugees in a State. In fact, one of the expected uses of the discretionary funds would be in consideration of unanticipated changes in location of new refugees. We do not believe, however, that the number of cash and medical assistance recipients or the unemployment rate in a State provides a good measure of refugee needs. The number of recipients may reflect widely varying eligibility requirements and payment levels among States, and recently arrived refugees may have equivalent needs for English language training and other basic services without regard to receipt of assistance or a State's unemployment rate.

Comment: Another commenter strongly objected to the assumptions used to develop the formula. The INS registration, according to this commenter, was discontinued because of uneven reporting of aliens around the country. This registration process resulted in underregistration of certain populations. The commenter also said that ORR has access to data on newly arrived refugees provided by the voluntary agencies of the American Council of Voluntary Agencies (ACVA), which provide an accurate count of arriving refugees. Adjustments for secondary migration can be made as indicated in the notice. Then, these population figures can serve as the baseline data for FY 1983, not the new figures developed from the 1981 INS data, according to the commenter.

Response: The Department recognizes that the INS alien registration figures have certain limitations. However, we feel that the data provide the best possible baseline, particularly since no

other comprehensive data base exists that reflects the relocation of refugees after their initial resettlement in the U.S. A comparison of the January 1980 INS registration with the April 1, 1980, U.S. Census count does not support the assertion of uneven reporting. Further, we think that the January 1981 registration, with the addition of subsequent arrivals and adjustments for estimated secondary migration, will provide an appropriate base for population estimates for social service funding to be allocated for FY 1983. Since INS does not currently expect to conduct further annual alien registrations, an alternative proposal, based on available data, will be developed for subsequent years and published in the **Federal Register** for public comment in 1983.

ORR does use the ACVA data on new arrivals of refugees, but at the same time we find this data source inadequate without further verification of population figures with other sources, such as CDC.

ORR's data system uses multiple data sources, including CDC, ICM, and ACVA. Data are updated monthly with refugee arrival information and adjusted for secondary migration.

In constructing the allocation formula, ORR determined that it had to provide a situation in which social service funding would be made available to States on an equitable basis—that is, more closely related to proportionate numbers of recent arrivals. Therefore ORR established the following criteria in recommending the allocation formula for FY 1982: The formula should give major emphasis to the needs of recent arrivals; assure a reasonable amount of continuity of State program levels where needs exist; and be based upon objective information which can actually be obtained or estimated reliably. Hence, the Director believes that the formula will result in allocations related to refugees generally having the greatest need for services (recent arrivals) and will at the same time minimize fluctuations in funding which would result if the allocations were based on changes in numbers of refugees during time periods shorter than three years. Thus the formula is expected to provide greater stability in State planning and programming for refugee services.

Comment: Criteria for the allocation formula, says one commenter, should reflect the same factors as the criteria for placement policy: For example, States might be identified as high impact areas (large concentration of refugee population), medium impact areas (medium concentration of refugee population), or low impact areas (low concentration of refugee population). High impact States (6–8 States) might receive $155.00 per refugee; medium impact (16–18 States), $130.00 per refugee; and low impact (the remaining States), $115.00 per refugee. This would use approximately the same amount as the total allocation amount proposed, according to this commenter. Hence, the formula would take "impact area" into account, and thereby be based more on the needs of refugees than only on the numbers of refugees.

On the other hand, other commenters stated that rural areas and States with only a few refugees have greater needs on a per capita basis. A commenter suggested that ORR consider "rural States" with refugee populations to have special needs and thereby be eligible to receive discretionary funds set aside by ORR for this purpose. Only then can the rural States be considered to be receiving equal consideration with urban States, says the commenter. Another commenter remarked that the formula concept was acceptable, but that a formula based on population assumes that social service costs are relatively equal, no matter where they are provided. The cost of providing these services to smaller groups of refugees scattered throughout a rural State, for example, is higher than the cost of providing services to the same number of refugees concentrated in a larger urban area.

Response: ORR has considered using a State's refugee population ratio (number of refugees as a proportion of the number of State residents). However, based on our consideration of the significance of the impact factor and other such factors, we concluded that these factors were undependable or poor indicators of refugee need.

In recognititon of the needs of States with small refugee populations, which may be widely scattered, ORR has decided to use some of the discretionary funds to assure that every participating State receives funding of at least $50,000. It is thought that this amount will provide the minimal, but necessary, level of funding needed to maintain effective services for a small refugee population.

Comment: Some commenters referred to the "best data available to the Director" language in the notice with respect to adjusting for secondary migration and indicated interest in the identification by ORR of the data sources.

Response: At this time, ORR means by "best data available" the information from its multiple data source system, including data from CDC, ICM, ORR-Miami, and ACVA. Because of the number of inquiries regarding the best available data, we are defining what we mean by "best data available" in Section I of the final notice, below.

Refugees Estimated in The Population

Comment: Several commenters pointed out that the Refugee Act of 1980 specifically removes national origin as an eligibility criterion for the provision of services to refugees. The commenters say that the population groups and statistics cited in the **Federal Register** as Southeast Asian and Cuban refugees (not entrants) reflect only a partial count of the eligible refugee population. Therefore the method of allocating funds for social services for refugees is inconsistent with the legal base under which State governments are required to operate their service delivery to all refugees.

Other commenters stated that currently the majority of refugees are Southeast Asian but in the future other ethnicities might predominate. An allocation formula therefore should remain valid regardless of the shifts in the ethnic composition of refugees.

Response: The population estimates used for the allocation for FY 1982 cover Southeast Asian and Cuban refugees (not entrants) who arrived from October 1, 1978, through September 30, 1981. These are the two principal groups that are served only by the State-administered program.

ORR will modify the refugee population estimates for FY 1983 and thereafter to include all time-eligible refugee groups, to the extent of available data. We now have INS alien registration data for January 1981 for Soviet, East European, Ethiopian, and Afghan refugees, as well as arrival data covering Soviet, East European, African, and Near Eastern refugees who have arrived since 1980. This will enable us to develop estimates covering all refugee groups of significant size.

Secondary Migration

Comment: One commenter said that the development of an acceptable and valid measure of secondary migration is essential to an equitable allocation of funds.

Response: ORR concurs. We have developed the State population estimates on the basis of the best data available for estimating secondary migration.

Comment: According to some commenters, the method used by ORR to estimate and adjust for secondary migration is unclear. The notice of the proposed allocation formula states that

the method is described in detail in ORR's *Report to Congress* of January 1981. However, the commenter says after examination of that document that it describes only how secondary migration during 1979 was developed from the INS alien registration. It does not describe, according to the commenter, how it is applied in subsequent years' estimates or for this special subpopulation; for example, treating 1979 net secondary in-migration to States as a constant number is said to be statistically improper in view of the fact that each year the number of refugees in the U.S. has dramatically increased.

The commenter suggests that the proper statistical approach would be to covnert the number to a proportion of the total refugee population in the U.S. It is reasonable to figure this proportion of secondary migration as of the midpoint of the year being studied rather than at the beginning.

Response: A complete self-contained explanation of the method used to adjust the State population estimates for secondary migration appears in Section III—Basis for Population Estimates—of this final notice.

The suggestion that ORR calculate secondary migration as a proportion of the number of refugees in the country has merit. However, the approach suggested makes the assumption that the propensity to migrate remains constant with length of residence in the U.S., so that an increasing refugee population would be assumed to manifest an increasing number of moves. Evidence available to ORR suggests that, on the contrary, most secondary migration is concentrated in the early period of residence in the U.S. For the purposes of the allocation, it would be necessary to focus only on migration of persons of less than three years' residence. Also, the calculations should be nationality-specific and adjusted for the changing nationality composition of the Southeast Asian refugee population, since available evidence indicates that the direction of secondary migration varies by nationality. In time, we hope to refine our estimation procedures to take all these factors into account. Until that work can be completed, a relatively simple, conservative estimation procedure seems preferable to the method suggested.

Comment: A commenter suggested that ORR consider using CDC statistics on refugee arrivals and secondary migration. The commenter also offered an alternative method to adjust the population figures for secondary migration by using State education agency statistics on non-English-speaking students enrolled in primary and secondary schools whose native language is representative of various refugee populations. These figures could be adjusted by dividing the national numbers into the total refugee arrivals for the pertinent time period to determine a child-to-adult ratio for the appropriate "multiplier" to be applied to each State's school population. This method would yield an estimate of total "eligible" refugee population in each State.

Response: ORR agrees that CDC is the best source of data on Southeast Asian refugee arrivals, and their information has been the basis of our system for more than a year. CDC does not compile statistics on secondary migration. ORR is using the refugee child counts provided by States to the U.S. Department of Education as an independent check on the accuracy of our population estimates. They are not a perfect source, because some States appear to have undercounted their refugee children, and because different nationality groups have significant variation in their average family size. Therefore different multipliers would be needed to compensate for variations in the nationality composition of the States.

Comment: The allocation formula does not consider policy changes that would impact secondary and tertiary migration inflows and outflows, according to one commenter. This is especially important in light of the recent policy change in refugee cash assistance (RCA) eligibility from a refugee's first 36 months in the U.S. to the first 18 months. The commenter stated that States having GA programs (not all of them do) will probably be heavily impacted with refugees from other States that do not have GA.

Response: ORR has incorporated information on secondary migration into its population estimates for the period up to the beginning of FY 1982. Where States have presented convincing evidence of additional secondary migration up to that time, the population estimates have been adjusted accordingly. ORR will incorporate available new information on secondary migration during 1982 into its estimates for FY 1983.

Alternative Methods to the INS Alien Registration

Comment: Some commenters recommended that ORR require CDC to report on all refugees because they feel that the information collected is accurate and dependable. According to one commenter, CDC sends the initial notice of refugee arrivals to the State's Health Department, and then it is verified by local health departments. Hence the information is a fairly reliable headcount of the local refugee population. Local health departments, according to the commenter, not only validate the residency from CDC data, they also provide data on secondary migration. Therefore this is a viable alternative to the INS registration, states the commenter.

Response: All refugees receive a medical examination overseas prior to admission. In addition, refugees arriving from Southeast Asia are met at the ports of entry by CDC health inspectors for an additional health screening. ORR has explored with CDC the possibility of expanding current health screening and data collection functions to all refugees at all ports of entry. Currently, the high cost of such expansion is not thought to be justified by the public health considerations involved. If health screening at ports of entry is expanded in the future to other groups, data collection will expand with it.

State and local health departments vary in their success in locating newly referred refugees and in their ability to report on secondary migration. Therefore the quality of data available from different jurisdictions is variable; the same point can be made with regard to any other data base compiled at the State and local level. The use of a national data base is the fairest method in that it measures all jurisdictions with the same yardstick.

Discretionary Funds

Comment: One commenter thought it was inappropriate to retain 10% of available funds for use for discretionary purposes. This commenter and others indicated that the total funds available for services to refugees are inadequate to meet the needs of the refugee population. Therefore they feel that discretionary funds should not be retained, but allocated to States according to the formula.

Response: ORR believes that it was important to have discretionary funding of at least 10% (of the available 15%) that would be made available to States on the basis of such factors as changed geographic distribution and special needs of particular groups. Also, it was recognized that additional funding under the formula resulting from any adjustments made in population estimates beyond the estimates specified in Sections III and IV might be needed; therefore some of the discretionary funds would be used for

this purpose. The discretionary funds will be used for services to refugees.

Comment: Several commenters remarked that if discretionary funds remain, then those monies should be distributed to augment existing State social service programs for refugees. These funds should not be used for special research or study projects according to these commenters.

Response: The Department agrees with the commenters. The discretionary funding purposes, we believe, were quite clearly outlined in the notice of the proposed formula. The available funding will be used to meet special and unforeseeable needs of States and to carry out special projects intended to contribute to the effectiveness and efficiency of refugee resettlement programs in service delivery and self-sufficiency.

Final Notice:

I. Allocation Formula

The Director of the Office of Refugee Resettlement (ORR) plans to allocate funds available for FY 1982 to States for refugee social services in accordance with the formula specified below.

Each State's allocation consists of that State's proportion of the total funds which the Director determines to be available for this purpose. A State's allocation is determined as follows:

The sum of—

1. (a) The number of refugees in the State who arrived in the U.S. not more than three years prior to the beginning of the fiscal year for which the funds are appropriated, as shown by the latest annual alien registration data from the Immigration and Naturalization Service available at the time the allocation is determined; and

(b) The number of refugees who have arrived in the State subsequent to the date of the annual alien registration data used in (a), above, up to the beginning of the fiscal year, as shown by the best data available to the Director at the time the allocation is determined; with

(c) An adjustment for the secondary migration of refugees who arrived in the U.S. not more than three years prior to the beginning of the fiscal year for which the funds are appropriated;

Divided by—

2. The national total of 1(a) and 1(b) above;

And the result multiplied by—

3. The total amount of funds determined by the Director to be available for this purpose.

The calculation above yields the allocation for each State.

Example: The following presents a computation for a hypothetical State XYZ based on the formula. All population figures are from ORR records or estimated actuals.

- State XYZ refugee population: (10/1/78 to 12/31/79) 14,500 + (1/1/80 to 10/1/81) 5,250 − (secondary migration) 100 = 19,650
- U.S. refugee population: (10/1/78 to 12/31/79) 170,000 + (1/1/80 to 10/1/81) 232,000 = 402,000
- State/U.S. refugee population proportion: 19,650 ÷ 402.000 = .04888
- FY 1982 funds determined by ORR director to be available for this purpose: $57,435,000
- State allocation for refugee support services: $57,435,000 × .04888 = $2,807,423.

The Director believes that the above formula results in allocations related to refugees generally having the greatest need for services (recent arrivals) and at the same time minimizes fluctuations in funding which would result if the allocations were based on changes in numbers of refugees arriving during time periods shorter than three years. Thus the formula provides greater stability in State planning and programming for refugee services.

The population estimates for the allocation of funds in FY 1982 are based on the January 1980 INS alien registration and subsequent arrivals (see section III, below). The last INS annual alien registration was conducted in January 1981, but data from that registration are not yet available. Under amendments to the Immigration and Nationality Act enacted on December 29, 1981 (Pub. L. 97–116), aliens are no longer required to register with INS on an annual basis. We believe that the January 1981 registration provides an appropriate base for population estimates for social service funds to be allocated for FY 1983. An alternative proposal, based on available data, will be developed for subsequent years and published for public comment.

II. Amount for Allocation

ORR expects $67,571,000 to be available for refugee social services in FY 1982.

The Director plans to allocate $57,435,000 (approximately 85%) of this total to States under the formula. The grant awards to each State depend upon the acceptance of each State's proposals for providing services in accordance with existing rules at 45 CFR Part 400.

The remaining funds will be used on a discretionary basis to meet special and unforeseeable needs of State and to carry out special projects intended to contribute to the effectiveness and efficiency of the refugee resettlement program in service delivery and self-support. Discretionary funds will be made available to States on the basis of such factors as changed geographic distribution and special needs of particular refugee groups. Of the remaining 15% of funds, up to 5% will be used for special projects similar to demonstration projects, and the remainder (at least 10%) will be made available to States during the year on a discretionary basis to meet special needs. Some of the discretionary funds are also being used to provide additional funding under the formula resulting from adjustments made in the population estimates which were published with the proposed formula. The special projects will test approaches to particular problems or be designed to develop model programs in refugee service delivery and self-support.

Basis for Population Estimates

The population estimates used for the allocations for FY 1982 cover Southeast Asian and Cuban refugees (not entrants) who arrived from October 1, 1978, through September 30, 1981. These are the two principal groups that are served only by the State-administered program.

The starting point for the population estimates was the Immigration and Naturalization Service (INS) alien registration for January 1980, the last available enumeration of the Southeast Asian population in the United States. Although we recognize that the INS alien registration figures have certain limitations, since not all persons register and since time has passed since the registration took place, we believe that these data provide the best possible starting point since no other nationwide data exist that reflect the relocation of refugees after their initial resettlement in the U.S.

The population base was derived as follows:

The number of Southeast Asians who registered in each State in January 1980 was cross-tabulated by year of entry. The figures were adjusted for underregistration. Entries from January 1980 through September 1981 by State were added. Persons who entered before FY 1979 were subtracted from each State's total. The figures were adjusted for estimated net interstate secondary migration.

ORR estimated the secondary migration of the Southeast Asian refugee population as follows: The data obtained from two consecutive INS alien registrations were adjusted for

estimated underregistration. (As in any census-type operation, some people fail to register.) Arrivals in each State for the year in question were added to the adjusted figures for the base year. These totals—the number of persons expected to register in each State if there were *no* secondary migration—were compared with the actual adjusted registration for the second year. Differences between the expected and the actual totals were attributed to net secondary migration. (This method does not consider deaths or emigration, which are statistically rare among this group, or births, since children born in the United States do not register with INS.)

Because the tabulation of the January 1981 data was incomplete when these estimates were developed, it was not possible to apply this method to measure secondary migration during 1980. Therefore, ORR combined several sources of data to adjust State population estimates for secondary migration through September 30, 1981. Estimates of secondary migration during 1978 and 1979 have been derived by the above method and published in ORR's two previous Reports to Congress. A mean of the two-year pattern during 1978 and 1979 was calculated for each State, and this number was considered to be the historical pattern of secondary migration during one year. That mean number was multiplied by 1.75, since the period during which secondary migration was being estimated was 21 months—from January 1980 through September 1981. The resulting figure was added to each State's total refugee population as estimated by adding new arrivals from January 1980 through September 1981 to the January 1980 INS registration base, as adjusted for underregistration.

During 1980 and 1981, certain new patterns of secondary migration are known to have developed. In particular, the H'mong refugees congregated in certain areas, notably California, Minnesota, and Wisconsin, with smaller concentrations in other States. Estimates of the secondary migration of the H'mong were developed with the assistance of the Lao Family Community, an organization assisting the H'mong. These were validated against the refugee child count compiled by the U.S. Department of Education, in tabulating the number of refugee children in each school district. Therefore, new secondary migration figures accounting for the more recent movements of the H'mong were applied to the State totals.

Finally, a reduction of 1,500 was made in the District of Columbia estimate, and the amount of the reduction was distributed between Virginia and Maryland according to their relative shares of the refugee population. ORR is aware that the number of refugee arrivals apparently destined for the District of Columbia each month is artificially inflated, because many local sponsoring organizations have offices there. Housing is located in the Virginia and Maryland suburbs for most of these refugees.

The population estimation procedure described above pertains to the estimated Southeast Asian population only. To these figures were added the Cuban refugee arrivals, by State, for FY 1979, FY 1980, and FY 1981, as shown by the ORR-Miami records. The Cuban figures were not adjusted for secondary migration since the majority are known to live in Florida and there are no reports of significant net secondary migration among this group.

The population estimates include only Southeast Asian and Cuban refugees, since these are the two principal groups that are served only by the State-administered program.

V. Allocations

The allocations for FY 1982 are as follows:

REFUGEE SOCIAL SERVICES FORMULA CALCULATION: FISCAL YEAR 1982

State	Population base [1]	Formula calculation [2]
	(1)	(2)
Alabama	1,381	$197,388
Alaska	241	[3]
Arizona	2,691	384,629
Arkansas	1,282	183,238
California	131,169	18,748,174
Colorado	5,643	806,562
Connecticut	3,853	550,715
Delaware	151	21,583
District of Columbia	1,151	164,514
Florida	23,917	3,418,491
Georgia	4,841	691,931
Hawaii	4,183	597,882
Idaho	826	118,061
Illinois	16,149	2,308,200
Indiana	2,287	326,884
Iowa	5,498	785,837
Kansas	4,835	691,074
Kentucky	1,148	164,085
Louisiana	5,548	792,984
Maine	710	101,481
Maryland	4,700	671,771
Massachusetts	8,805	1,258,511
Michigan	6,303	900,897
Minnesota	18,607	2,659,525
Mississippi	1,100	157,223
Missouri	3,012	430,510
Montana	686	98,051
Nebraska	1,250	178,662
Nevada	1,425	203,677
New Hampshire	239	34,161
New Jersey	4,226	604,028
New Mexico	2,269	324,311
New York	13,346	1,907,563
North Carolina	3,338	484,252
North Dakota	550	78,600
Ohio	4,711	673,350
Oklahoma	3,855	551,001
Oregon	12,170	1,739,476
Pennsylvania	14,391	2,056,926
Rhode Island	4,400	628,892
South Carolina	1,340	191,528
South Dakota	562	80,327
Tennessee	3,300	471,673
Texas	30,662	4,382,564
Utah	5,911	844,868
Vermont	232	33,160
Virginia	10,123	1,446,895
Washington	19,141	2,735,851
West Virginia	332	47,453
Wisconsin	7,442	1,063,696
Wyoming	305	43,594
Guam	135	19,296
Puerto Rico	104	[3]
Virgin Islands	10	[3]
Total:	[4] 402,870	[4] 58,056,005

[1] Indochinese and Cuban refugees who arrived in U.S. October 1, 1978—September 30, 1981.
[2] At $142.93 per capita. This figure is for calculating purposes only; the FY 1982 budget request was based on anticipated numbers of new arrivals, not on 3-year population estimates.
[3] Not currently participating in refugee program.
[4] Total dollars reflect upward adjustments which have been made in allocations to certain States based on evidence resulting in revised population estimates. Sum of population figures is greater than actual total shown because upward revisions in estimates for certain States have not been deducted from other States' estimates.

Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance No. 13.814 Refugee Assistance State Administered Programs)

Dated: September 20, 1982.

John A. Svahn,

Commissioner of Social Security.

[FR Doc. 82-26486 Filed 9-27-82; 8:45 am]

BILLING CODE 4190-01-M

Public Health Service

Privacy Act of 1974; Notification of New Routine Use

AGENCY: Public Health Service (PHS), HHS.

ACTION: Notification of a new routine use permitting disclosure of information from Privacy Act system of records 09-35-0044, "Health Professions Planning and Evaluation," HHS/HRA/OA.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to establish a new routine use permitting disclosure to contractors of information in the Privacy Act system of records 09-35-0044, "Health Professions Planning and Evaluation," HHS/HRA/OA.

DATE: The Health Resources and Services Administration (HRSA) will adopt the new routine use without

further notice on October 28, 1982 unless PHS receives comments which would result in a contrary determination.

ADDRESS: Comments should be addressed to the individual named at the address listed below. Comments received will be available for inspection during office hours, Monday through Friday, in Room 9–22, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Kay Clarey, Privacy Act Coordinator, Room 9–22, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, or call 301–436–7240.

SUPPLEMENTARY INFORMATION: The Health Resources and Services Administration (HRSA), Office of the Administrator (OA), maintains a system of records on health professionals and students in the various health professions to identify problems in the health care training and delivery systems, to plan programs to correct those problems, and to evaluate the effectiveness of the resultant programs. Data collection may be accomplished under contract.

Due to an oversight, a routine use to provide for disclosure to contractors and their staff was not originally published in the system notice. We are now inserting the following routine use to clarify to the public the nature of the data collection process:

Disclosure may be made to HHS contractors and their staff in order to accomplish any of the purposes of the system of records. The recipients are required to protect such records from improper disclosure and to maintain Privacy Act safeguards.

The purpose of adding the new routine use is to permit disclosure of records to HHS contractors and their staff so that they are able to accomplish objectives required by approved contracts. Because the purpose of the system could not be accomplished in the absence of the approved contracts, we believe that disclosure to contractors pursuant to the proposed routine use is compatible with the purpose of the system. Contractors will receive such data only upon approval of the System Manager when appropriate safeguards, required by the terms of the contract, are in place.

The system notice was last published in the **Federal Register** on October 27, 1981 (46 FR 52744–52745). We are republishing the entire notice to incorporated the proposed new routine use, and to update the "Safeguards" and "Contesting Record Procedure" sections of the notice. These last changes are technical in nature and do not require a public comment period.

Dated: September 21, 1982.

Jack Markowitz,

Acting Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09–35–0044

SYSTEM NAME:

Health Professions Planning and Evaluation. HHS/HRA/OA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

In addition, data are maintained at contractor and field work sites as studies are developed, data collected, and reports written. You may request a list of locations where individually identifiable data are currently located from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Health professionals and students in the various health professions. Physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, heath care administration personnel, nurses, allied health personnel, medical technologists, and other health personnel may be included.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, health profession, education history, academic grades, employment history, nationality, race, ethnicity, economic background, and sex. The specific data items collected and maintained are determined by the needs of the individual project.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, Section 708 (42 U.S.C. 292h re: Health Professions Data), Section 787 (42 U.S.C. 295g–7 re: Educational Assistance to Individuals from Disadvantaged Backgrounds), Section 798 (42 U.S.C. 295h–7 re: Educational Assistance to Disadvantaged Individuals in Allied Health Training), and Section 820 (42 U.S.C. 196k re: Special Project Grants and Contracts).

PURPOSE(S):

The Health Resources Administration uses various records in this system to identify problems in the health care training and delivery systems, to plan programs to correct those problems, and to evaluate the effectiveness of the resultant programs. The agency assesses the current supply of health professionals and predicts the supply needs of the future. The agency determines nationwide requirements as well as the needs of specific areas.

The agency also collects data on the educational system which supplies health professionals and on specific health education programs. The data are used to develop and test new methods of training and utilizing health professionals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

A record may be disclosed for a research purpose, when the Department:

(a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(b) Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

(c) Has required the recipient to—(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the reseach project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; and

(d) Has secured a written statement attesting to the recipient's

understanding of, and willingness to abide by these provisions.

Disclosure may be made to HHS contractors and their staff, in order to accomplish any of the purposes of the system of records. The recipients are required to protect such records from improper disclosure and to maintain Privacy Act safeguards.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, magnetic tape, card files, microfilm, microfiche, and disk storage. The needs of each project determine the types actually used.

RETRIEVABILITY:

By name. In some instances an assigned number may be used to retrieve records.

SAFEGUARDS:

Locked building, locked rooms, locked file cabinets, personnel screening, locked computer rooms and computer tape vault, guard service, password protection of automated records, and limited access to only authorized personnel will be used, as considered appropriate by the System Manager for the type of records included in each project. Authorized personnel are generally limited to contractor personnel directly involved in data collection compilation, and analysis. (Safeguards are in accordance with Part 6, ADP Systems Security of the Department's ADP Systems Manual, with Chapter 45–13, Safeguarding Records Contained in Systems of Records, of the Department's General Administration Manual, and with supplementary Chapter PHS.hf: 45–13)

RETENTION AND DISPOSAL:

The contractor removes personal identifiers and destroys the records when they are no longer needed, as appropriate to the specific project. (Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the Records Control Schedule of the Health Resources Administration.) You may obtain a copy of the disposal standard for a particular project by writing to the System Manager.

SYSTEM MANAGER(S) AND ADDRESS:

Contracting Officer, Health Resources Administration, Center Building, Room 9–22, 3700 East-West Highway, Hyattsville, Maryland 29782.

NOTIFICATION PROCEDURE:

To determine if you are the subject of a record, contact the System Manager and provide suitable identification and, if possible, information about the specific project.

RECORD ACCESS PROCEDURE:

To obtain access to your record, contact the System Manager and provide suitable identification, a reasonable description of the record and, if possible, information about the specific project.

CONTESTING RECORD PROCEDURES:

To correct your record, contact the System Manager and provide (a) suitable identification, (b) a reasonable description of the record, (c) the specific information you want corrected, and (d) a precise description of the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Subject individuals, state and local health departments, other health providers, health professions schools, and health professions associations may provide information depending on the individual project involved.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. 82–26613 Filed 9–27–82; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 17, 1982. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by October 13, 1982.

Carol D. Shull,

Chief of Registration, National register.

ALABAMA

Mobile County

Theodore vicinity, *Bellingrath Gardens and Home,* S of Theodore off AL 59

ALASKA

Anchorage District

Anchorage, *Wendler Building,* 401 I St.

CALIFORNIA

Alameda County

Berkeley, *State Asylum for the Deaf, Dumb and Blind,* Bounded by Dwight Way, City line, Derby and Warring Sts.

Monterey County

Monterey, *Finch, James W., House,* 410 Monroe St.

DELAWARE

Kent County

Clayton, *Byrd's AME Church,* Smyrna Ave.

Smyrna vicinity, *George Farmhouse,* E. of Smyrna off DE 6

Smyrna vicinity, *Moore House,* 511 W. Mt. Vernon St.

Smyrna vicinity, *Peterson and Mustard's Hermitage Farm,* E. of Smyrna off DE 325

Smyrna vicinity, *Woodlawn,* SE of Smyrna on US 13

IDAHO

Ada County

Meridian, *Neal, Halbert F. and Grace, House,* 101 W. Pine St.

ILLINOIS

Cook County

Chicago, *Hotel Windermere East,* 1642 E. 56th St.

KENTUCKY

Harrison County

Cynthiana, *Cynthiana Commercial District,* Pike St. from Church to Main Sts., and Main St. from Bridge to Pleasant Sts.

LOUISIANA

Franklin Parish

Fort Necessity, *Grayson House,* SE of Fort Necessity on LA 562

Iberia Parish

Lydia, *Oliver Store,* LA 83

LaSalle Parish

Good Pine, *Good Pine Lumber Company Building,* W. Bradford St.

Lafourche Parish

Thibodaux vicinity, *Chatchie Plantation House,* E. of Thibodaux on LA 308

Orleans Parish

New Orleans, *St. James AME Church,* 222 N. Roman St.

Plaquemines Parish

Pointe a la Hache vicinity, *Harlem Plantation House,* W. of Pointe a la Hache on LA 39

St. Landry Parish

Grand Prairie vicinity, *Fontenot, Alexandre, fils House,* S. of Grand Prairie off LA 103

St. Martin Parish

St. Martinville vicinity, *Sandoz House,* W. of St. Martinville on LA 96

Tangipahoa Parish

Arcola, *Arcola Presbyterian Church,* Church St.

MISSISSIPPI

Adams County

Natchez vicinity, *Laurel Hill Plantation,* S of Natchez off US 61

Copiah County

Georgetown vicinity, *Alford-Little House*, S of Georgetown off MS 27

NEBRASKA

Boone County

Raeville *St. Bonaventure Church Complex*, Off NE 14

Pawnee County

Pawnee City, *Hempstead, E. F., House*, 14th & H St.

NEW JERSEY

Cumberland County

Bridgeton, *Bridgeton Historic District*, Roughly bounded by Teddy Pond, NW, SW, and Belmont Aves., Water and Commerce Sts., NJ Central RR, Irving, Walnut, Bank, Penn and Laural Sts. also South Ave. between Pine St. and Garfield Ave.

NORTH DAKOTA

Barnes County

Valley City, *Rudolf Hotel*, Central Ave. and 2nd St.

Burleigh County

Bismarck, *Bismarck Tribune Building*, 222 N. 4th St.
Bismarck, *Patterson, E.G., Building*, 412–414 Main St.
Bismarck, *Remington Block*, 400 E. Main Ave.

Cass County

Casselton, *Casselton Commercial Historic District*, Roughly bounded by Front and 1st St. between 6th and 8th Ave.
Fargo, *Fargo Theatre Building*, 314 Broadway

Emmons County

Linton vicinity, *Goldade, Johannes, House*, SE of Linton off ND 13

Golden Valley County

Sentinel Butte, *Sentinel Butte Public School*, Byron St.

Grand Forks County

Grand Forks, *BPOE Lodge (Downtown Grand Forks MRA)*, 12 N. 4th St.
Grand Forks, *Building at 201 S. 3rd St. (Downtown Grand Forks MRA)*, 201 S. 3rd St.
Grand Forks, *Building at 205 DeMers Ave. (Downtown Grand Forks MRA), 205 DeMers Ave.*
Grand Forks, *Building at 312 Kittson Ave. (Downtown Grand Forks MRA)*, 312 Kittson Ave.
Grand Forks, *Building at 317 S. 3rd St. (Downtown Grand Forks MRA)*, 317 S. 3rd St.
Grand Forks, *Clifford Annex (Downtown Grand Forks MRA)*, 407–411 DeMers Ave.
Grand Forks, *Dakota Block (Downtown Grand Forks MRA)*, 21 S. 4th St.
Grand Forks, *Dinnie Block (Downtown Grand Forks MRA)*, 109 N. 3rd Ave.
Grand Forks, *Edgar Building (Downtown Grand Forks MRA)*, 314 Kittson Ave.
Grand Forks, *Electric Construction Co. Building (Downtown Grand Forks MRA)*, 16 S. 4th St.
Grand Forks, *Finks and Gokey Block (Downtown Grand Forks MRA)*, 414–420 DeMers Ave.
Grand Forks, *First National Bank (Downtown Grand Forks MRA)*, DeMers Ave.
Grand Forks, *Flatiron Building (Downtown Grand Forks MRA)*, 323 Kittson Ave.
Grand Forks, *Grand Forks City Hall (Downtown Grand Forks MRA)*, 404 N. 2nd Ave.
Grand Forks, *Grand Forks Mercantile Co. (Downtown Grand Forks MRA)*, 124 N. 3rd St.
Grand Forks, *Grand Forks Wollen Mills (Downtown Grand Forks MRA)*, 301 N. 3rd St.
Grand Forks, *Hook and Ladder #1 and Hose Co. #2 (Downtown Grand Forks MRA)*, 215 S. 4th St.
Grand Forks, *Iddings Block (Downtown Grand Forks MRA)*, 9 N. 3rd St.
Grand Forks, *Lyons Garage (Downtown Grand Forks MRA)*, 214–218 N. 4th St.
Grand Forks, *Masonic Temple (Downtown Grand Forks MRA)*, 413–421 Bruce Ave.
Grand Forks, *New Hampshire Apartments (Downtown Grand Forks MRA)*, 105 N. 3rd St.
Grand Forks, *Northern Pacific Depot and Freight House (Downtown Grand Forks MRA)*, 202 N. 3rd St.
Grand Forks, *Odd Fellows Block (Downtown Grand Forks MRA)*, 23–25 S. 4th St.
Grand Forks, *Red River Valley Brick Co. (Downtown Grand Forks MRA)*, 215 S. 3rd St.
Grand Forks, *Roller Office Supply (Downtown Grand Forks MRA)*, 7 N. 3rd St.
Grand Forks, *Speed Printing (Downtown Grand Forks MRA)*, 220 S. 3rd St.
Grand Forks, *St. John's Block (Downtown Grand Forks MRA)*, 2 N. 3rd St.
Grand Forks, *Stratford Building (Downtown Grand Forks MRA)*, 311 DeMers Ave.
Grand Forks, *Telephone Co. Building (Downtown Grand Forks MRA)*, 24 N. 4th St.
Grand Forks, *Viets Hotel (Richardson House) (Downtown Grand Forks MRA)*, 309–311 3rd St. S.
Grand Forks, *Wright Block (Neil's Block) (Downtown Grand Forks MRA)*, 408–412 DeMers Ave.

McHenry County

Velva, *Hotel Berry*, 100 W. Central Ave.

McLean County

Wilton, *Holy Trinity Ukrainian Greek Orthodox Church*, Bismarck Ave. and 6th St.

Ramsey County

Devils Lake, *St. Mary's Academy*, E. 7th St.

Richland County

Galchutt vicinity, *South Wild Rice Church (St. John's Lutheran Church)*, SE of Galchutt at US 81 and CR 8

Stutsman County

Jamestown, *St. James Catholic Church*, 622 1st Ave. South.

Ward County

Minot *Union National Bank and Annex*, 2 N. Main and 7–11 E. Central Ave.

VIRGINIA

Charlottesville (Independent City, *Tonsler, Benjamin, House (Charlottesville MRA)*, 327 6th St.
Richmond (Independent City), *Shockoe Valley and Tobacco Row Historic District*, Roughly bounded by Dock, 15th, Clay, Franklin, and Peach Sts.
Staunton (Independent City), *Augusta County Courthouse*, 1 E. Johnson St.

Fairfax County

Langley, *Langley Fork Historic District*, Jct. of Georgetown Pike and Old Chain Bridge Rd.

Mecklenburg County

Chase City, *Shadow Lawn*, 27 N. Main St.

Spotsylvania County

Chancellor vicinity, *Tubal Furnace Archeological Site*

[FR Doc. 82-26522 Filed 9-27-82; 8:45 am]

BILLING CODE 4310-70-M

Land Management Bureau

[C-24224]

Colorado; Partial Cancellation of Withdrawal Application and Opening of Land

September 20, 1982.

The Bureau of Land Management, Department of the Interior, filed application for protective withdrawal C-24224 on August 3, 1976, which was published August 12, 1976, as FR Doc. 76-23531. This application is hereby cancelled insofar as it affects the following described public land:

New Mexico Principal Meridian

T. 50 N., R. 8 E., sec. 2, lots 3 and 4.

Sixth Principal Meridian

T. 51 N., R. 8 E.,
Sec. 10, lot 1;
Sec. 11, lot 4, S½NW¼, SW¼, and W½SW¼SE¼;
Sec. 12, lots 1, 2, 3, 4, S½N½, E½W½SW¼, E½SW¼, and SE¼;
Sec. 13, NE¼, E½NW¼, E½NW¼NW¼, SW¼NW¼, and S½;
Sec. 14, N½NW¼, SW¼NW¼, and E½SE¼;
Sec. 23, E½E½, W½E½NW¼, and E½W½SE¼;
Sec. 24;
Sec. 25, W½;
Sec. 26, E½E½, W½SE¼NW¼, and E½SW¼SE¼;
Sec. 35, S½SW¼NW¼, W½SW¼, and SE¼SW¼.
T. 15 S., R. 77 W.,
Secs. 18 to 20, inclusive, and 29;
Sec. 30, E½, and E½W½;
Sec. 31, E½, and E½E½W½;
Sec. 32.
T. 13 S., R. 78 W.,
Sec. 30, lots 22 to 24, inclusive;
Sec. 31, E½NE¼, and E½E½SE¼;

Sec. 32, SW¼NW¼, and W½SW¼.
T. 14 S., R. 78 W.,
Sec. 4, SW¼SW¼;
Sec. 5, lots 1 and 2, S½NE¼, and N½SE¼;
Sec. 9, NW¼SW¼NE¼, S½SW¼NE¼, N½NW¼, N½SE¼NW¼, SE¼SE¼NW¼, NE¼NE¼SW¼, W½NE¼SE¼, SE¼NE¼SE¼, W½SE¼, and SE¼SE¼;
Sec. 10 SW¼SW¼;
Sec. 14, SW¼;
Sec. 15, NW¼, N½SW¼, NW¼SW¼SW¼, E½SW¼SW¼, SE¼SW¼, and N½SE¼, exclusive of M.S. 16411, M.S. 18631, and M.S. 19032;
Sec. 16, E½NE¼, and NE¼NE¼SE¼, exclusive of M.S. 19032;
Sec. 23, NW¼, and N½SW¼, exclusive of M.S. 11925.
T. 15 S., R. 78 W.,
Sec. 1, lots 2 to 4, inclusive, S½N½, SE¼SW¼, and SE¼;
Sec. 2, SE¼NE¼, and NE¼SE¼;
Sec. 12, NE¼, NE¼NW¼, S½NW¼, E½SE¼, NW¼SW¼, AND SE¼;
Sec. 13, NE¼, E½NW¼, E½SE¼, and NW¼SW¼;
Sec. 24, E½NE¼.
T. 12 S., R. 79 W., sec. 35, E½W½, exclusive of M.S. 20723.
T. 13 S., R. 79 W.,
Sec. 2, lots 2, 3, and E½SE¼;
Sec. 12, SW¼NE¼, N½NW¼, SE¼NW¼, and SE¼;
Sec. 13, NE¼, and W½SE¼;
Sec. 24, W½SE¼;
Sec. 25, NW¼NE¼, SE¼NE¼, and NE¼SE¼.

The area described aggregates approximately 11,878.66 acres.

Therefore, in accordance with the regulations contained in 43 CFR 2310.2–1(c) at 10:00 a.m. on November 1, 1982, the lands described herein shall be relieved of the segregative effect of this application and open to operation of the public land laws generally, including the United States mining laws, subject to any valid existing rights. The lands remain open to mineral leasing.

Any valid application received at or prior to 10:00 a.m. on November 1, 1982 shall be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

Any questions concerning these lands should be directed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Colorado State Office, 1037—20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-26573 Filed 9-27-82; 8:45 am]

BILLING CODE 4310-84-M

[C-35774]

Colorado; Classification of Public Lands for State Indemnity Selection

September 17, 1982.

1. Pursuant to Sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852), and the provisions granted to the State of Colorado by the Act of March 3, 1875 (18 Stat. 475), the public lands described below are hereby classified for State Indemnity Selection. The State of Colorado has filed an application to acquire the described lands in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. This application was assigned serial number Colorado 35774.

2. The notice of proposed classification of these lands was published in the **Federal Register** of July 7, 1982, Vol. 47, No. 130, pages 29607–29609. The land is being classified as proposed.

3. The lands included in this proposed classification are in Garfield and Mesa counties and are described below. The names of holders of leases, permits, and/or rights-of-way, and the identifying number of each use authorization, as well as other encumbrances on the land were listed in the Notice of Proposed Classification:

Sixth Principal Meridan

Parcel 8 T. 6 S., R. 94 W.,
Sec. 29, SW¼NW¼;
Parcel 9 T. 7 S., R. 95 W.,
Sec. 9, SE¼SE¼;
Sec. 10, SW¼SW¼;
Sec. 15, W½NW¼, NW¼SW¼;
Sec. 16, E½NE¼, and NE¼SE¼.

Ute Principal Meridian

Parcel 12 T. 1N., R. 1 E.,
Sec. 32, E½NE¼, and NE¼SE¼;
Sec. 33, W½NE¼, N½NW¼, and SE¼.
Parcel 13 T. 2 N., R. 3 W.,
Sec. 30, SW¼, and S½SE¼;
Sec. 31, NE¼, N½NW¼, SE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 32, W½.
Parcel 15 T. 1 S., R. 1 E.,
Sec. 25, SE¼;
Sec. 35, E½;
T. 2 S., R. 1 E.,
Sec. 1, Lots 1, 2, 3, 4, and S½N½;
Sec. 2, Lots 1, 2, and S½NE¼.
T. 1 S., R. 2 E.,
Sec. 19, SE¼;
Sec. 30, Lots 4, E½, SE¼NW¼, and E½SW¼;
Sec. 31, Lots, 1, 2, 3, 4, and E½W½;
T. 2 S., R. 2 E.,
Sec. 6, Lots 3, 4, 5, and SE¼NW¼.

The areas described contain 3,826.06 acres.

4. This classification decision is based on the following disposal criteria set forth in Title 43 Code of Federal Regulations, Part 2400.

Transfer of the lands to the State will help fulfill the Federal Government's common school land grant to the State, and constitutes a public purpose use of the land. Lands found to be valuable for a public purpose use will be considered chiefly valuable for public purposes (43 CFR 2430.2b).

5. Rights-of-way granted by the Bureau of Land Management on the above lands will transfer with the land. Oil and gas leases will remain in effect under the terms and conditions of the lease. State law and Board of Land Commissioners procedures provide for the offering to holders of Bureau of Land Management grazing permits, licenses or leases the first right to lease lands that are transferred to the State.

In the event these lands are clearlisted, the Bureau of Land Management authorized grazing use will terminate at the time title to the land is transferred to the state.

Any cultural resources will be managed by the State. A study has been made of the areas which indicates little potential for mineral exploration for locatable minerals. There are no mining claims recorded with BLM for these lands, nor has any evidence of mining activity been found on the ground.

6. The public lands classified by this notice are shown on maps on file and available for inspection in the Bureau of Land Management District Office, 764 Horizon Drive, Grand Junction, Colorado 81501, Telephone (303) 243–6552.

7. For a period of 30 days from the date of publication in the **Federal Register**, this classification shall be subject to exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3 and 2462.3. Interested parties may submit comments to the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

Bob Moore,

Associate State Director.

[FR Doc. 82-26574 Filed 9-27-82; 8:45 am]

BILLING CODE 4310-4-M

Bureau of Reclamation

Contract Negotiations With Purgatoire River Water Conservancy District, Trinidad Project, Colorado; Intent To Begin Contract Amendment Negotiations of the Repayment Contract and Extension of the Development Period

The Department of the Interior, through the Regional Director, Lower Missouri Region of the Bureau of

Reclamation (Bureau), intends to extend the development period for the Purgatoire River Water Conservancy District (district) under contract No. 7–07–70–W0095 (formerly contract No. 14–06–70–6279) an additional 3 years. Also, the Bureau will initiate negotiations with the district at this time to revise the repayments procedure to ensure that annual repayment installments will provide for repayment of the district's obligation within the authorized 70-year repayment period.

The Trinidad Project, consisting of the multiple-purpose Trinidad Dam and Reservoir, was authorized for construction by the Army Corps of Engineers through the Flood Control Act of 1958 (72 Stat. 297), as amended by the Act of October 27, 1965 (79 Stat. 1073). The Corps of Engineers is responsible for the operation and maintenance of project facilities. The Bureau administers the repayment contract with the district pursuant to Reclamation law.

The project provides flood control, recreation, and supplemental irrigation water. In accordance with the provisions of contract No. 7–07–70–W0095, the district will reimburse the United States for $6,435,600 of the project costs allocated to the irrigation purpose over the term of the contract.

All meetings scheduled by the Bureau with the district for the purpose of discussing terms and conditions of the proposed contract will be open to the general public as observers. Advance notice of meetings shall be furnished to those parties who have provided a written request for same at least 1 week prior to any such meeting. Requests should be addressed to Project Manager, Fryingpan-Arkansas Project Office, Bureau of Reclamation, P.O. Box 515, Pueblo, Colorado 81002.

All written correspondence concerning the proposed contract amendment will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract amendment not later than 30 days after the completed draft is made available to the public. If little or no public interest in these negotiations is evidenced, as gauged by the response to this notice and local new releases or announcements, the availability of the proposed form of contract for public review and comment will not be publicized through the **Federal Register** or other media. The Commissioner of Reclamation will review comments submitted and, based on the number, sources, and nature of the comments, will decide whether to hold a public meeting.

For further information on the contract negotiations, contact the Project Manager at the above address or telephone (303) 544–5277, extension 201.

Dated: September 22, 1982.

Jed D. Christensen,

Acting Commissioner of Reclamation.

[FR Doc. 82–26530 Filed 9–27–82; 8:45 am]

BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

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.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79997. By decision of August 24, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to COAST TO COAST INTERNATIONAL TRANSPORT CORP. of Certificate No. MC–146068 (Sub-Nos. C–12X and 13) issued to CONSOLIDATED CARRIERS INTERNATIONAL TRANSPORT CORPORATION authorizing transportation of (1) *chemicals and related products,* between points in CA, FL, IL, IN, MA, MI, NH, NJ, NY, OH, TN, TX, WV and WY, on the one hand, and on the other points in Mecklenburg County, NC; (2) *metal products,* between Harrisonburg, VA, on the one hand, and on the other, points in Butte County, CA; (3) *motor vehicle parts and accessories,* between (a) Pierce, Mason, King, Grays Harbor and Thurston Counties, WA; (b) Clackamas, Multnomah, Marion, Polk, Yamhill, Columbia and Washington Counties, OR; (c) Pima, Cochise, Graham and Pinal Counties, AZ; (d) Washoe, Lyon, Douglas and Storey Counties, NV; and (e) San Joaquin and Sacramento Counties, CA, on the one hand, and on the other, points in the U.S. (except AK and HI); and (4) *general commodities* (except classes A and B explosives) between points in AL, GA, NC, SC, TN, and VA on the one hand, and on the other, points in AZ, CA, NV, OR, UT, and WA; and (5) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Bristol County, MA, Florence County, SC, and points in FL, on the one hand, and on the other, points in the US (except AK and HI). Representative: Robert B. Walker, Esq., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. NOTE: This notice corrects the notice published in the **Federal Register**, Vol. 47, No. 176, p. 39909, Friday, September 10, 1982 which contained certain inadvertent errors.

MC–FC–80022. By decision of September 9, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to H. O. Kline Transportation, Inc. of New Castle, DE of Certificate No. MC–84145 (Sub-No. 2F) issued March 12, 1981, to Carpenter's

Motor Freight, Inc., of Wilmington, DE, authorizing the transportation of *general commodities* (with the usual exceptions), between Philadelphia, PA, and points in DE, on the hand, and, on the other, points in DE, MD, NJ, NY, PA, and DC. Applicant's representative is: Joseph W. Weik, Stanley T. Czajkowski, 1807 Market St., P.O. Box 2324, Wilmington, DE 19899.

MC–FC–80023. By decision of September 7, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to QUESADA AUTO TRANSPORT CORPORATION of Laredo, TX of Certificate NO. MC–127185 (Sub-No. 9) issued September 2, 1981 to GATEWAY TRANSFER CO., INC. of Laredo, TX authorizing the transportation over irregular routes, of *transportation equipment* between ports of entry on the international boundary line between the U.S. and Mexico, located at points in TX, on the one hand, and, on the other, points in AZ, CA, GA, IL, NM, NV, OH, MI, MO, PA, TX, and WI Applicant's representative is: James R. Boyd, 1000 Perry Brooks Building, Austin, TX 78701.

MC–FC–80026. By decision of September 9, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to JIM THORPE TRANSPORTATION CO., INC., of Jim Thorpe, PA of Certificates Nos. MC–35321 and MC–34321 (Sub-No. 1F), issued to HENRY S. ERSCHEN, INC., of Walnutport, PA, authorizing the transportation of passengers and their baggage in round-trip, charter operations, (1) in MC–34321, between Palmerton, PA, and points within 5 miles thereof, and poinys in NY, NJ, MD, and DE, and (2) in MC–35321 (Sub-No. 1F), beginning and ending at Aquashicola, Berlinsville, Bowmanstown, Cherryville, Danielsville, Lehighton, Palmerton, Parryville, Slatington, Walnutport, and Weissport, PA, and extending to points in the U.S., (except points in AL, AK, CT, DE, HI, IL, IN, KY, MD, MI, NJ, NY, NC, OH, TN, VA, and DC. Applicants' Representative: Gary M. Miller, 1414 Millard Street, Bethlehem, PA 18018.

Notes.—Transfer holds no authority from this Commission. TA has been sought.

MC–FC–80031. By decision of September 13, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Jerry A. Ammerman of Willmar, MN of Certificate No. MC–5227 (Sub-No. 74)F issued to Eckley Trucking, Inc., of Mead, NE, authorizing: the transportation of general commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S. Applicant's representative: Jerry A. Ammerman, P.O. Box 1335, Wilmar, MN 56201. TA lease is not sought. Transferee is not a carrier.

MC–FC–80032. By decision of September 13, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Common Carriers, Inc., of Ellensburg, WA, of Certificate No. MC–139248 (Sub-No. 6)X which supersedes Sub-No. 4, issued April 22, 1982, to Contract Carriers, Inc., of Ellensburg, WA, authorizing: commodities in bulk between points in Washington, Oregon and Idaho. Applicant's representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055. Phone (206) 228–3807. TA lease is not sought. Transferee is not a carrier.

MC–FC–80041. By decision of September 13, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to Ronald L. Marquardt, Inc., of Certificate No. MC–156283 (Sub-No. 1) issued April 18, 1982 to Ronald L. Marquardt authorizing operations as a common carrier by motor vehicle, over irregular routes, transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) used household goods for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense between points in the United States (except Alaska and Hawaii). Applicant's representative is: Michael J. McCartney, P.O. Box 71, Breckinridge, MN 56520.

MC–FC–80045. By decision of September 14, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to KENNY BERGER, of Dickerson, ND, of Certificate No. MC–153154, issued to K & K TRUCKING, INC., of Dickerson, ND, authorizing the transportation of (1) *lumber wood products, forest products, shingles,* and *gypsum board,* from points in WA, OR, CA, ID, MT, UT, NY, CO, and WY, to points in CA, NV, CO, IL, WI, MI, OH, MO, TX, ND, SD, MN, IA, MT, WY, NE, and KS, (2) *knocked down steel buildings and parts and accessories for knocked down steel buildings,* from Pleasant City, IA, Spanish Fork, UT, and Columbus, NE, to points in ND, SD, MT, and MN, (3) *insulating materials and supplies, and roofing, and roofing materials and supplies,* from points in WY, SD, NE, MN, WI, and IL, to points in ND, (4) *drilling mud, drilling mud additives, and drilling fluids,* (a) from points in KS, OK, MO, TX, UT, CO, and WY to points in ND, SD, MT, and WY and (b) from points in ND to points in WY, and (5) *fabricated casting,* from Arlington, WA, to points in the U.S. Applicants' Representative: Charles E. Johnson, P.O. Box 2056, Bismark, ND 58502.

Notes.—Transferee holds no authority from this Commission. However, he controls transferor through his ownership of all of its outstanding stock. An application for TA has been filed.

MC–FC–80048. By decision of September 17, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to Distron Division of Burger King Corporation, of Miami, FL, Permit No. MC–161043, issued on July 29, 1982, to Distron Transportation Systems, Inc., of Miami, FL, authorizing the transportation of (1) *food and related products,* between points in the United States; (2) *paper and related products and plastic products,* between points in the United States; (3) *animal and vegetable shortening,* between points in the United States; and (4) *such commodities* as are dealt in by wholesale and retail stores, between points in the United States, under continuing contracts with various shippers. Applicants' representative: Michael F. Morrone, 1150 17th Street, NW, Suite 1000, Washington, DC 20036, (202) 457–1124. Transferee is not an ICC carrier.

MC–FC–79890. By decision of August 24, 1982, issued under 49 U.S.C. and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to SHIPPERS TRANSPORTATION, INC., of Eden Prairie, MN, of Certificate No. MC–145743 (Sub-No. 19), issued to T.F.S., INC., of Grand Island, NE, which authorizes the transportation of *general commodities* (except classes A and B explosives) between points in the U.S., on the one hand, and, on the other, points in Adams, Buffalo, and Hall Counties, NE. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106.

MC–FC–80005. By decision of August 31, 1982 issued under 49 U.S.C. 1026 and the transfer rules at 49 C.F.R. 1132 Review Board Number 3 approved the transfer to KEUKA TRANSPORTATION, INC., of Penn Yan, NY, of certain portions of No. MC–

105902 (Subs No. 29X and 31) issued respectively, November 12, 1981, and June 29, 1982, to PENN YAN EXPRESS, INC., of Penn Yan, NY, authorizing the transportation of general commodities (with certain exceptions) over regular and irregular routes between points in described areas of NY, NJ, PA, OH, MD, and IL.

MC–FC–80010. By decision of August 31, 1982 issued under 49 U.S.C. 10924 and the transfer rules at 49 C.F.R. 1132 Review Board Number 3 approved the transfer to DISTRIBUTION IN DIMENSION, INC., of Lakewood, NJ, of License No. MC–153845, issued to MARKO ASSOCIATES, INC. of Lakewood, NJ, authority operations as a broker for the transportation of general commodities (except household goods) between points in the United States.

Note.—Transferee holds no authority from this Commission. TA has not been sought. Applicant's representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123.

MC–FC–80029. By decision of September 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to LOU SEIDEN, doing business as ROSE TRANSPORTATION CO., of Atlantic City, NJ, of Certificates No. MC–323 and MC–323 (Sub-No. 3), issued March 22, 1950 and December 14, 1972 to KARL SEIDEN, doing business as ROSE TRANSPORTATION CO., of Atlantic City, NJ, authorizing transportation as a motor *common* carrier, transporting (1) *general* commodities over regular routes between Philadelphia, PA and Atlantic City, NJ, over U.S. Hwy 30, serving all intermediate points and the off-route points of Pleasantville, Margate, Vontnor, and Long Port, NJ; (2) *art objects, antiques, uncrated household goods, office furniture,* and *equipment in use* over irregular routes between Atlantic City, NJ and points within a 15 mile radius of Atlantic City on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia; and (3) *food and foodstuffs* (except in bulk, in tank vehicles) in refrigerated vehicles, from the Kraft Food Division facilities near Fogelsville, PA to points in New Jersey. Representative: Robert B. Linhorn, 3220 PSFS Bldg., 12 South 12th Street, Philadelphia, PA 19107, (215) 922–1400.

MC–FC–80030. By decision of September 9, 1982 issued under 49 U.C.V. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 3 approved the transfer to G & G TRUCKING, INC., of Certificate Nos. MC–147468 November 6, 1980, MC–147468 (Sub-No. 1) August 26, 1981 and MC–147468 (Sub-No. 3) issued December 4, 1981 to HAROLD SPIVEY, doing business as SPIVEY TRUCK LINES of East Dublin, GA, authorizing the transportation (1) under the lead certificate of *newsprint paper, waste newspaper and cores,* from points in Laurens County, GA to points in AL, FL, GA, KY, LA, MS, NC, SC, TN, VA, MD, PA, OK, and KS and of *materials, equipment and supplies used in the manufacture of newsprint paper* (except commodities in bulk), from points in AL, FL, GA, KY, LA, MS, NC, SC, TN, VA, TX, AR, MO, IL, IN, OH, WV, MD, PA, OK and KS to points in Laurens County, GA; (2) under the sub 1 certificate of *coil steel* between points in Butler County, OH, on the one hand, and, on the other, points in Laurens County, GA, and *metal products,* between points in Laurens County, GA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, MD, MA, MS, NJ, NY, NC, OH, PA, SC, TN, VA, WV, and NH; and (3) under the sub 3 certificate of *wire,* between points in Telfair County, GA, on the one hand, and, on the other, points in AR, OH, NC, SC, IA, AL, OK, KY, IL, TN, MS, TX, VA and WI. Representative: Virgil H. Smith, 74 Highway N Box 245, Tyrone, GA 30290.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–26553 Filed 9–27–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 162]

Motor Carriers; Permanent Authority Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of opposing verified statements must be filed with the Commission within 45 days after the date of this **Federal Register** notice. Applicant may file a verified statement in rebuttal within 60 days. Such pleadings shall comply with 49 CFR 1100.247 (renumbered 1100.251) addressing specifically the issue(s) indicated as the purpose for republication. Special Rule 247 (renumbered 251) was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

MC 138841 (Sub-22), (Republication), filed May 18, 1982, published June 4, 1982, and republished this issue. Applicant: BLACK HILLS TRUCKING CO., PO Box 2130, Rapid City, SD 57709. Representative: James W. Olson, PO Box 1552, Rapid City, SD 5779, (605) 342–7090. A decision by the Commission, Review Board No. 2, decided August 31, 1982, served September 17, 1982, finds that applicant is authorized to operate as *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting (1) *general commodities* (except household goods, and classes A and B explosives), between points in South Dakota on and west of U.S. Hwy 83, on the one hand, and, on the other, points in Iowa, Kentucky, Illinois, Minnesota, Colorado, Missouri, Nevada, New Jersey, Wisconsin, New York, California, and Utah, (2) *auto parts,* between Portland, OR, on the one hand, and on the other, points in Campbell County, WY, and Pennington County, SD, and (3) *food and related products,* between points in Carver and Nobles Counties, MN, Buffalo County, NE, and Muscatine and Johnson Counties, IA, on the one hand, and, on the other, points in North Dakota, South Dakota, Nebraska, Montana, Iowa, Illinois, Wisconsin, Missouri, Minnesota, Oregon and California. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is give notice of the authority granted to include authority between South Dakota points, on the one hand, and, on the other, points in Missouri.

Agatha L. Mergenovich,

Secretary.

[FR Doc.82–26555 Filed 9–27–82; 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 about the following to Team 1, (202) 275-7992.

Volume No. OP1-161

Decided: September 17, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

MC 6801 (Sub-13), filed September 7, 1982. Applicant: G. H. HARNUM, INC., 867 Woburn St., Wilmington, MA 01887. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742-3530. Transporting *machinery and those commodities which because of size or weight require the use of special equipment,* between points in the U.S. (except AK and HI).

MC 104430 (Sub-68) filed September 10, 1982. Applicant: CAPITAL TRANSPORT COMPANY, INC., P.O. Box 408, McComb, MS 39648. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948-8820. Transporting *commodities in bulk,* between points in AL, LA, and MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 106451 (Sub-23) filed September 3, 1982. Applicant: COOK MOTOR LINES, INC., 1016 Triplett Blvd., P.O. Box 370, Akron, OH 44309. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215, (614) 228-1541. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Barbour, Grant, Harrison, Marion, Mineral, Monongalia, Preston, Randolph, Taylor, Tucker and Upshur Counties, WV, and Garrett County, MD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 119211 (Sub-16) filed September 13, 1982. Applicant: MAU TRUCKING, INC., 90 Jacob's Addition, Ida Grove, IA 51445. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244-2329. Transporting *food and related products,* between points in Buena Vista and Cherokee Counties, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 119441 (Sub-59) filed September 3, 1982. Applicant: BAKER HI-WAY EXPRESS, INC., 555 Commercial Pkwy., P.O. Box 506, Dover, OH 44622. Representative: Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889-2531. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 119600 (Sub-3) filed September 10, 1982. Applicant: HUTTON TRUCKING COMPANY, 192 Gilchrist Rd., Mogadore, OH 44260. Representative: Steve Toth (same address as applicant), (216) 628-9901. Transporting *those commodities* manufactured, processed, or dealt in by rubber manufacturers, between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 134970 (Sub-37), filed September 7, 1982. Applicant: UNZICKER TRUCKING, INC., P.O. Box 35, Highway 24 East, El Paso, IL 61738. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475-6761. Transporting *food and related products, and such commodities* as are dealt in by grocery and drug stores, between points in the U.S. (except AK and HI).

MC 138741 (Sub-136), filed September 10, 1982. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 914 East Highway H, Liberty, MO 64068. Representative: Tom Kretsinger, 20 East Franklin, P.O. Box 258, Liberty, MO 64068, (816)-781-6000. Transporting *general commodities* (except Classes A and B explosives and household goods), between points in AL, AR, CO, GA, IN, IL IA, KS, KY, LA, MI, MN, MO, MS, NE, NC, OH, OK, PA, SC, SD, TN, TX, WV, and WI.

MC 139391 (Sub-13,) filed September 13, 1982. Appliant: G & H TRANSPORTATION CO., INC., P.O. Box 157, Widener, AR 72394. Representative: Frank B. Hand, Jr., 523 South Cameron St., Winchester, VA 22601, (703) 662-0927. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Great Lakes Chemical Corporation, of El Dorado, AR.

MC 144510 (Sub-8), filed September 7, 1982. Applicant: JERRY J. KOBS, INC., 131 Bridge Court, Sergeant Bluff, IA 51054. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402)-397-9900. Transporting *food and related products,* between points in CO, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 145300 (Sub-9), filed September 13, 1982. Applicant: MINUTE MAN TRANSIT, INC., 24 Williams Street, Dedham, MA 02026. Representative: William S. Felmly (same address as applicant), (617) 444-3000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Saxon Industries, Inc., of New York, NY and its divisions: Missisquoi Specialty Board, of New York, NY, Fonda Cup & Container, of Union, NJ, Quality Park Products, and Brown & Bigelow, Inc., Both of St. Paul, MN, Blake, Moffitt & Towne, of Brisbane, CA, The Chukerman Company, of Chicago, IL, Saxon Paper Corp. of Florida, of Miami, FL, Saxon Paper of New England, of Boston, MA, Saxon Paper-New York, of Long Island

City, NY, Saxon Business Products, of Miami Lakes, FL, and The Union Paper Company, of Detroit, MI.

MC 150301 (Sub-24), filed September 8, 1982. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616)–459–6121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Fritz Corporation, of Danbury, CT; (2) Bob Schwermer & Associates, of Arlington Heights; and (3) Roseman Mower Corporation, of Evansville, IL.

MC 150951 (Sub-16), filed September 8, 1982. Applicant: CRANSTON TRUCKING COMPANY, (Division of Cranston Print Works Company), 1381 Cranston Street, Cranston, RI 02920. Representative: Paul M. Overton (same address as applicant), (401) 943–4800. Transporting *textile mill products,* between points in the U.S. under continuing contract(s) with Dimension Sail Cloth, Inc., of Putnam, CT.

MC 151741 (Sub-6), filed September 2, 1982. Applicant: D. E. WILLOUGHBY TRUCKING, 2058W Carr Hill Road, Columbus, IN 47201. Representative: Sue Willoughby (same address as applicant), (1) (812) 372–8493. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Lear Siegler, Inc., and its divisions, namely Seymour Housewares Company, and Beauti-Glide Company), all of Seymour, IN.

MC 151960 (Sub-2), filed September 8, 1982. Applicant: BERTRAND MOLTER, Route 1, P.O. Box 299, Eau Claire, MI 49111. Representative: Daniel O. Hands, 104 S. Michigan Ave., Suite 410, Chicago, IL 60603, (312)–641–1944. Transporting (1) *food and related products;* and (2) *those commodities,* used in the production and distribution of wine, between Chicago, IL, on the one hand, and, on the other, points in Berrien, Oceana and Van Buren Counties, MI.

MC 153590 (Sub-3), filed September 7, 1982. Applicant: BELCOURT OIL COMPANY, INC., P.O. Box 750, Belcourt, ND 58316. Representative: C. Jack Pearce, Suite 1200, 1000 Connecticut Ave. NW., Washington, DC 20036, (202) 785–0048. Transporting *building materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with Idaho Pacific Lumber Company, Inc., of Boise, ID.

MC 154381 (Sub-2), filed August 24, 1982. Applicant: PRETLOW BROS. TRUCKING CO. INC.,121 E. Marshall St., Richmond, VA 23219. Representative: Revardo C. Pretlow (same address as applicant), (804) 798–1437. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Norfolk, VA, points in St. Marys County, MD, and DC.

MC 154861 (Sub-13), filed September 10, 1982. Applicant: CAROLINA MOTOR EXPRESS, INC., P.O. Box 550, Forest City, NC 28043. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Ave. NW., Washington, DC 20005, (202) 737–1030. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 156361 (Sub-4), filed September 8, 1982. Applicant: BIGBEE TRANSPORTATION COMPANY, P.O. Box 3610, American Lane, Greenwich, CT 06836–3610. Representative: Stuart M. Geschwind, (same address as applicant), (203) 552–3242. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Economics Laboratory, Inc., of St. Paul, MN.

MC 157131, filed August 23, 1982. Applicant: REDWOOD COAST TRUCKING, INC., 2210 Samoa Road, Arcata, CA 95521. Representative: Frank N. Blagen (same address as applicant), (707) 443–0857. Transporting *such commodities* as are dealt in or used by a manufacturer of forest products, between points in the U.S. (except AK and HI), under continuing contract(s) with Louisiana-Pacific Corporation, of Portland, OR.

MC 158651 (Sub-4), filed September 7, 1982. Applicant: GRAEBEL VAN LINES, INC., 719 N. Third Ave., Wausau, WI 54401. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20423, (202) 785–0024. Transporting *household goods,* between points in the U.S., under continuing contract(s) with Texico, Inc., of Houston, TX.

MC 158851 (Sub-1), filed September 10, 1982. Applicant: BULL'S EYE EXPRESS, 68 East Rd., Warren Center, PA 18851. Representative: John A. Sykas (same address as applicant), (717) 395–3168. Transporting *food and related products,* between points in NH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159780 Sub-1), filed September 13, 1982. Applicant: R. W. TINNEY, INC., P.O. Box 151, Perrysburg, OH 43551. Representative: John L. Alden, 1396 West Fifth Ave., Columbus, OH 43212, (614) 481–8821. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Miami County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159820 (Sub-1), filed September 10, 1982. Applicant: JOHN S. JERICH, JR., R.D. No. 4, Butler, PA 16001. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201)–836–1144. Transporting *general commodities* (except classes A and B explosives and household goods), between points in NY, OH and PA.

MC 160620, filed September 13, 1982. Applicant: DERREL M. SNOW AND ANNE M. SNOW d.b.a. DERREL SNOW TRUCKING, 504 Highland Ave., Maryville, MO 64468. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515)–244–2329. Transporting *metal products,* (1) between Nodaway County, MO, on the one hand, and, on the other, points in AR, CO, IA, IL, IN, KS, KY, MN, NE, OK, SD, TN, TX and WY; and (2) between St. Joseph, MO, on the one hand, and, on the other, points in CO, IL, KS, OH, OK, TX, WY, and Madison County, NE.

MC 160670, filed September 3, 1982. Applicant: HILL'S ENTERPRISES OF SOUTHWESTERN MICHIGAN, INC., 6447 Niles Rd., St. Joseph, MI 49085. Representative: Nancy J. Amabile, 29891 Red Arrow Highway, Paw Paw, MI 49079, (616)–657–3416. Transporting *auto parts,* between points in IL, IN, MI, MN, NC, NJ, OH, TN and WI, under continuing contract(s) with Auto Specialties Manufacturing Co., of St. Joseph, MI.

MC 162021, filed September 10, 1982. Applicant: TED A. FARNSWORTH AND GRACE M. FARNSWORTH, a Partnership, d.b.a. FAR-WEST CO., P.O. Box 9091, Stockton, CA 95205. Representative: Milton W. Flack, 8484 Wilshire Blvd., Suite 840, Beverly Hills, CA 90211, (213) 655–3573. Transporting (a) *animal feed,* between points in San Joaquin County, CA, on the one hand, and, on the other, points in AZ, NV, OR and WA, and (b) *building and construction materials, equipment and supplies, machinery and lumber and wood products,* between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162090, filed September 3, 1982. Applicant: HIRNING TRUCKING, INC.,

Route 4, Box 311, Dickinson, ND 58601. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502–2056. Transporting (1) *fertilizer*, between points in MN, on the one hand, and, on the other, points in ND and MT, (2) *lumber, lumber products, lumber mill products, forest products and building materials*, between points in WA, OR, ID, MT, CA, CO, WY, UT and SD, on the one hand, and, on the other, points in ND, SD, NE, KS, MO, IL, IN, MI, WI, IA and MN, and (3) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Stark County, ND, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162971, filed September 13, 1982. Applicant: DONALD R. LIND AND NULLET L. SCHNEDIER, a Partnership, d.b.a. D & N TRUCKING, 19472 Yuma Place, Castro Valley, CA 94546. Representative: Ronald C. Chauvel, 100 Pine Street, Suite 2550, San Francisco, CA 94111 (415) 986–1414. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Lucky Stores, Inc., of San Leandro, CA, Hills Brothers Coffee, Inc., of San Francisco, CA, and J & R Warehouses & Service Co., of Hayward, CA.

MC 163510, filed September 9, 1982. Applicant: CHARLIE C. MOORE, JR., d.b.a. MOORE'S EXPRESS, 4101 West Blvd., P.O. Box 19088, Charlotte, NC 28219. Representative: Stanley J. Fridlund (same address as applicant) (704) 399–0399. Transporting *textile mill products*, between points in NC, on the one hand, and, on the other, points in SC.

MC 163710, filed September 7, 1982. Applicant: WESTERN LIQUID TRANSPORT, 2120 Harbor St., Pittsburg, CA 94565. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108 (415) 986–8696. Transporting *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Granex Corporation U.S.A., of San Francisco, CA.

MC 163730, filed September 8, 1982. Applicant: HENRY W. MEYERS, Box 207, New Carlisle, IN 46552. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309 (515) 244–2329. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163731, filed September 8, 1982. Applicant: HOMEQUITY, INC., 249 Danbury Road, Wilton, CT 06897. Representative: Francis W. McInerny, 1000 Sixteenth St., NW., Suite 502, Solar Building, Washington, D.C. 20036, (202) 783–8131. As a *broker*, in arranging for the transportation of *household goods*, between points in the U.S.

MC 163750, filed September 8, 1982. Applicant: LONE STAR INTERNATIONAL HORSE CARRIERS, Route 3, Box 2544A, Magnolia, TX 77355. Representative: Robert J. Birnbaum, 3636 Executive Center Drive, Suite 151, Austin, TX 78731, (512) 346–4800. Transporting *race horses, brood mares, show horses, and polo ponies*, between points in KY, LA, AR, CA, FL, NY, TX, NM, ND, IL and OH.

MC 163760, filed September 7, 1982. Applicant: HOT SPRINGS REFINING COMPANY, Box 112A Star Route, Hot Springs, SD 57747. Representative: T. A. Bonde, (same address as applicant), (605) 745–4162. Transporting (1) *petroleum, natural gas and their products;* (2) *fertilizer;* (3) *salt;* (4) *grain products;* and (5) *anhydrous ammonia*, between points in SD, NE, MN, WY, CO, UT, MT, ND AND KS.

MC 163780, filed September 10, 1982. Applicant: SAND-BAGGERS, INC., 2103 Corydon Pike, New Albany, IN 47150. Representative: Herbert D. Liebman, 403 W. Main Street, P.O. Box 478, Frankfort, KY 40602, (1–502) 875–3493. Transporting *sand*, (1) between points in LaSalle County, IL, on the one hand, and, on the other, points in IN, KY and OH, and (2) between points in IN, KY and OH.

MC 163800, filed September 10, 1982. Applicant: LLOYD CRUM, d.b.a. RACINE ELEVATOR CO., Racine, MN 55967. Representative: James E. Ballenthin, 1016 Conwed Tower, 444 Cedar St., St. Paul, MN 55101, (612) 227–7731. Transporting *metal products*, between points in MN and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163820, filed September 13, 1982. Applicant: NUTTY'S MOVING & STORAGE, INC., 322 Kalorama St., Staunton, VA 24401. Representative: Beverly C. Nutty, (same address as applicant), (703) 886–4451. Transporting *household goods*, between points in VA, WV, MD, NC, SC, GA and DC.

Volume No. OP1–164

Decided: September 21, 1982.

By the Commission, Review Board No. 1, Members Parker, Fortier and Chandler. Member Parker not participating.

MC 99961 (Sub-7), filed September 14, 1982. Applicant: BIG CHIEF TRUCK LINES, INC., P.O. Box 1039, 1331 Hwy 93 Scott, LA 70583. Representative: Ronald Marchand, (same address as applicant), (318) 232–1905. Transporting *oilfield drilling rigs, supplies and waste material*, between points in LA, TX, and MS, on the one hand, and, on the other, points in AR, OK, KS, and CO.

MC 108631 (Sub-25), filed September 15, 1982. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville Rd. at Industrial Drive, Bethlehem, PA 18017. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *metal products*, between points in Bucks County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 108631 (Sub-26), filed September 15, 1982. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville Rd. at Industrial Drive, Bethlehem, PA 18017. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *those commodities* which because of their size or weight require the use of special handling or equipment, between points in Montour County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 119631 (Sub-50), filed September 10, 1982. Applicant: DEIOMA TRUCKING COMPANY, P.O. Box 335, East Sparta, OH 44626. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between New York, NY, Boston, MA, Baltimore, MD, New Orleans, LA, and Philadelphia, PA, and points in Yolo, San Joaquin, Monterey, and Madera Counties, CA, and Castro County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141820 (Sub-2), filed September 16, 1982. Applicant: ROMAN RURAK, 319 Eckford St., Brooklyn, NY 11222. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. Transporting *passengers and their baggage*, in special and charter operations, beginning and ending at New York, NY, and points in NJ, and extending to points in the U.S. (except AK and HI).

MC 141950 (Sub-5), filed September 10, 1982. Applicant: IOWA MINNESOTA EXPRESS, LTD., 2216 5th Avenue, South, Ft. Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA

50309, (515) 245–4300. Transporting (1) *metal products,* between points in Webster County, IA, on the one hand, and, on the other, points in IN, IL, MN, MO, NE and WI; and (2) *food and related products,* between points in IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141951 (Sub-6), filed September 13, 1982. Applicant: MARY DICK AND HOLLIS DICK, d.b.a. H. O. DICK TRANSFER CO., P.O. Box 307, Bethany, IL 61914. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *food and related products,* (1) between points in IA, IL and IN; and (2) between St. Louis, MO, and points in IA and Milwaukee County, WI, on the one hand, and, on the other, points in AR, IA, IN, IL, KS, KY, GA, MI, MN, MO, NE, ND, OH, PA, SD, TN and WI.

MC 144991 (Sub-5), filed September 14, 1982. Applicant: KINGSWAY TRANSPORTS, INC., 1480 Military Road, Kenmore, NY 14217. Representative: John W. Bryant, 900 Guardian Bldg., Detroit, MI 48226, (313) 963–3750. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Minnetonka, MN, and junction MN Hwy 171 and the MN-ND State line, from Minnetonka over U.S. Hwy 12 to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction U.S. Hwy 53, then over U.S. Hwy 53 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction MN Hwy 11, then over MN Hwy 11 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction MN Hwy 171, then over MN Hwy 171 to the MN-ND State line, and return over the same route, serving all intermediate points.

MC 145120 (Sub-12), filed September 7, 1982. Applicant: HOLMDEL TRUCKING CORPORATION, 18 Hackensack Ave., S. Kearny, NJ 07032. Representative: Edward J. Kiley, 1730 M St., NW., Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between New York, NY, New Orleans, LA, Chicago, IL, Los Angeles, CA, Boston, MA, Houston and Dallas, TX, and points in Middlesex and Union Counties, NJ, and Broward County, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Condition.—Issuance of a certificate in this proceeding is conditioned upon applicant's written request to cancel its permits in MC 145120 and Subs 4, 8X and 9, issued February 22, 1980, July 24, 1980, April 16, 1981, and August 10, 1981, respectively.

MC 146820 (Sub-21), filed September 13, 1982. Applicant: B & G TRUCKING, INC., PO Box 581, Worthington, OH 43085. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215 (614) 228–1541. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Beverage Management, Inc., of Columbus, OH.

MC 148000 (Sub-9), filed September 16, 1982. Applicant: C. H. DREDGE & CO., INC., 918 South 2000 West, Syracuse, UT 84041. Representative: Bruce W. Shand, 311 S. State St., Suite 280, Salt Lake City, UT 84111 (801) 531–1300. Transporting *such commodities* as are dealt in by wholesale and retail grocery supply houses, between those points in and west of WI, IL, MO, TN, AR, and LA (except AK and HI).

MC 151511 (Sub-6), filed September 16, 1982. Applicant: TOM O'CONNOR, d.b.a. KERRY MOTOR SERVICE, 4433 South Halsted Street, Chicago, IL 60609. Representative: Tom O'Connor (same address as applicant) (312) 538–0700. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL, and points in Clark, Floyd and Harrison Counties, IN, and Bullitt, Jefferson and Oldham Counties, KY, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, NE, NJ, NY, ND, OH, PA, SD, and WI.

MC 157591 (Sub-1), filed August 10, 1982, previously published in the **Federal Register** on September 1, 1982. Applicant: WALTER M. NICKELS d.b.a. NICKELS FARM, Raymondville, MO 65555. Representative: Walter M. Nickels, (same address as applicant) (417)–457–6477. Transporting *those commodities* dealt in or used by manufacturers of log homes, between points in the U.S. (except AK and HI), under continuing contract(s) with New England Log Homes, Inc., of Houston, MO.

Note.—The purpose of this republication is to indicate the correct name of applicant and the correct domicile of the supporting shipper.

MC 162871, filed September 10, 1982. Applicant: J.B.I., INC., 1717 Omaha Street, Osseo, WI 54758. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, PO Box 5086, Madison, WI 53705–0086 (608) 238–3119. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with West Wisconsin Distributing Co., Inc., and Gusto Distributing, Inc., both of Eau Claire, WI.

MC 163770, filed September 7, 1982. Applicant: R. J. McHONE, d.b.a. R. J. McHONE TRUCKING, Route 1, Box 540, Weaverville, NC 28787. Representative: Ralph McDonald, PO Box 2246, Raleigh, NC 27602 (919) 828–0731. Transporting *coal,* between points in AL, FL, GA, IN, KY, MI, NC, OH, SC, TN and VA.

MC 163811, filed September 13, 1982. Applicant: ROY L. LUCAS AND FRANK L. RYALL, d.b.a. CHATTANOOGA TOURS, 3409 Amber Avenue, Chattanooga, TN 37412. Representative: Frank L. Ryall (Same address as applicant) (615) 757–1600. Transporting *passengers and their baggage* in charter and special operations, between points in Hamilton, Marion and Bradley Counties, TN; Catoosa, Walker, Whitfield and Dade Counties, GA; and Jackson and Dekalb Counties, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team 2, (202) 275–7030.

Volume No. OP2–229

Decided: September 17, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

MC 5623 (Sub-60), filed September 10, 1982. Applicant: ARROW TRUCKING CO., P.O. Box 7280, Tulsa, OK 74105. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA. 22101, (703) 893–3050. Transporting *Mercer commodities and machinery,* between points in the U.S. (except HI), under continuing contract(s) with Amoco Production Company (U.S.A.), of Chicago, IL, and Sohio Petroleum Co., of Oklahoma City, OK.

MC 87113 (Sub-25), filed September 13, 1982. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006, 202–833–8884. Transporting *household goods,* between points in the U.S, under continuing contract(s) with National Relocation Services, Inc., of Milwaukee, WI.

MC 107012 (Sub-780), filed September 10, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same as applicant) (219) 429–2234. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. under continuing contract(s) with Pizza Time Theatre, Inc., of Sunnyvale, CA.

MC 121633 (Sub-2), filed September 3, 1982. Applicant: MISSION STEEL CARRIERS, INC., 8815 Mississippi, Houston, TX 77029. Representative:

Mike Cotten, P.O. Box 1148, Austin, TX 78767, 572–472–8800. Transporting (1) *Mercer commodities*, (2) *pipe*, and (3) *those commodities which because of their size or weight require the use of special handling or equipment*, between points in TX. Note: Applicant states that by this application it seeks to convert its Certificate of Registration in MC 121633 Sub-1 to a Certificate of Public convenience and Necessity. Condition: Issuance of a certificate in this proceeding is conditioned upon applicant's written request for the coincidental cancellation of its Certificate of Registration, MC 121633 (Sub-1), issued November 10, 1977.

MC 121673 (Sub-7), filed September 13, 1982. Applicant: WESTERN MOTOR FREIGHT, INC., 1201 South Grand, P.O. Box 94846, Oklahoma City, OK 73143. Representative: C. L. Phillips, Rm. 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106, 405–528–3884. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OK.

MC 146803 (Sub-4), filed September 13, 1982. Applicant: WILLIAMS PAPER COMPANY, INC., 934 North First St., St. Louis, MO 63102. Representative: James A. Williams, (same address as applicant), 314–231–0661. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of food and related products, between points in the U.S., under continuing contract(s) with Phoenix Candy Company, Inc., Division of Beatrice Foods, of Brooklyn, NY.

MC 148183 (Sub-49), filed September 13, 1982. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, 202–737–2188. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 150983 (Sub-2), filed September 13, 1982. Applicant: WALTER BENSON, DBA WALTRANS, 425 W. E., St., Ontario, CA 91762. Representative: Lawrence V. Smart, Jr., 419 NW. 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OR, WA, CA, ID, NV, MT, WY, CO, UT, AZ, NM, TX, OK, KS, NE, SD, ND, MN, IA, MO, AR, and LA, under continuing contract(s) with Superior Transportation Systems, Inc., of Wilsonville, OR.

MC 155302 (Sub-2), filed September 14, 1982. Applicant: MACH FARMS, INC., 1020 South Superior St., Antigo, WI 54409. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, 608–273–1003. Transporting *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Commerce Industrial Chemical, Inc., of Milwaukee, WI.

MC 163792, filed September 10, 1982. Applicant: MADISON EXPRESS LINES, INC., Airport Industrial Park, Madison, GA 30650. Representative: John W. Greer, III, Suite 925, Healey Bldg., Atlanta, GA 30303, (404) 523–1601. Transporting *packaging products*, and *such commodities* as are dealt in or used in the manufacturing of packaging products, under continuing contract(s) with Malanco South, Inc., of Madison, GA.

MC 163803, filed September 10, 1982. Applicant: C. A. WHITNEY TRUCKING, 1950 Pescadero Dr., Salinas, CA 93906. Representative: Tom Gendreau, (same address as applicant), 408–449–4127. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Monterey, Santa Cruz and San Benito Counties, CA, on the one hand, and, on the other, points in Santa Clara County, CA.

MC 163822, filed September 13, 1982. Applicant: FRED LUCAS, d.b.a. FRED LUCAS TRUCKING, Miller Rd., Rt. 2, Box 432, Monroe, OR 97456. Representative: Fred Lucas, (same as applicant), (503) 847–5443. Transporting *lumber and wood products*, between points in WA, CA and OR.

MC 163823, filed September 13, 1982. Applicant: ALL STOR, INC., R.R. #1, Peosta, IA 52068. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *grain storage bins*, between points in Christian County, Il, on the one hand, and, on the other, points in IA, MN, and WI.

MC 163843, filed September 14, 1982. Applicant: WRITE-WAY TRANSPORTATION, INC., 2531 Connors Bldg., No. 2C, Detroit, MI 48207. Representative: James F. Schouman, 21925 Garrison, Dearborn, MI 48124, 313–561–3548. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MI, OH, IL, IN, WI, PA, WV, NY, NJ, MD, DE, MA, CT, MO, KS, IA, AR, TN, KY, NC, SC, GA, MS, LA, AL, OK and TX.

Volume No. OP2–230

Decided: September 20, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. Member Parker not participating.

MC 58522 (Sub-17), filed September 10, 1982. Applicant: RIVER TRAILS TRASNSIT LINES, INC., Highway 20, West, Galena, IL 61036. Representative: Richard A. Westley, 4506 Regnet St., Suite 100, Madison, WI 53705–0086, (608) 238–3119. Transporting *passengers and their baggage*, in roundtrip charter and special operations, between points in the U.S. (including AK, but excluding HI), under continuing contract(s) with Tri-State Tours, Inc., of Galena, IL.

MC 98763 (Sub-4), filed September 13, 1982. Applicant: TED PETERS TRUCKING COMPANY, INC., 600 Fourth St., Gustine, GA 95322. Representative: Daniel W. Baker, 100 Pine St., #2550, San Francisco, CA 94111, (415) 986–1414. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CA, OR, NV, AZ, UT, CO, and WA.

MC 147572 (Sub-4), filed September 15, 1982. Applicant: COUNTRY CARRIER CORP., 8206 Park Ave., Allen Park, MI 48101. Representative: Alex J. Miller, 555 South Woodward, Suite 512, Birmingham, MI 48011, 313–647–3350. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Nabisco Brands, Inc., of East Hanover, NJ.

MC 163773, filed September 7, 1982. Applicant: M-TRANSPORTATION SERVICES, 4607 Old Coach Ln., San Antonio, TX 78220. Representative: Viola Derbigny and Morris H. Mosley, Sr., (same address as applicant) (512) 661–4330. As a *broker*, at San Antonio, TX, in interstate or foreign commerce, in arranging for the transportation by motor vehicle of *passengers and their baggage*, between points in TX, on the one hand, and, on the other, points in the U.S.

MC 163853, filed September 13, 1982. Applicant: SILVERMAN COMPANY, 48 Swannanoa River Rd., Asheville, NC 28805. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602, 919–828–0731. Transporting *coal*, between points in AL, FL, GA, IN, KY, MI, NC, OH, SC, TN, and VA.

Volume No. OP2–323

Decided: September 21, 1982.

By the Commission, Review Board Number 2, Members Parker, Chandler, and Fortier. Member Parker not participating.

MC 682 (Sub-39), filed September 17, 1982. Applicant: BURNHAM VAN SERVICE, INC. 5000 Burnham Blvd., Columbus, GA 31907. Representative: David Earl Tinker, 1000 Connecticut Avenue NW., Suite 1112, Washington, DC 20036–5391, (202) 887–5868. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Fairchild Singapore PTE Ltd., of Singapore.

MC 52793 (Sub-111), filed September 16, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with The H.K. Ferguson Company, of Cleveland, OH.

MC 52793 (Sub-112), filed September 16, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Texaco, Inc., of Houston, TX.

MC 99882 (Sub-5), filed September 13, 1982. Applicant: Y. G. TRUCKING, INC., P.O. Box 157, Oak Hill, OH 45656. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in Mingo County, WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145912 (Sub-7), filed September 16, 1982. Applicant: TRUCK SERVICE, INC., 303 Vance St., Forest City, NC 28043. Representative: Richard M. Tettelbaum, P.O. Box 720434, Atlanta, GA 30328, (404) 256–4320. Transporting *rubber and plastic products and furniture and fixtures*, between points in the U.S. (except AK and HI).

MC 146712 (Sub-4), filed September 17, 1982. Applicant: STEEL CARGO, INC., P.O. Box 81, Sharpsville, IN 46068. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240 317–846–6655. Transporting *metal products*, between St. Paul, MN, on the one hand, and, on the other, points in NC, IN, OH, MI, WI, IL, and IA.

MC 149343 (Sub-3), filed September 16, 1982. Applicant: SOUTHERN PRIDE TRUCKING, INC., P.O. Box 84000, San Diego, CA 92138. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682–8154.Transporting (1) *aircraft engines, turbines, parts and accessories, and ground support equipment*, between points in the U.S. (except AK and HI), and (2) *machinery and transportation equipment*, between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 149573 (Sub-11), filed August 6, 1982 (correction), previously published in the **Federal Register** issue of August 24, 1982, and republished this issue. Applicant: NTL, INC., 4721 N. 56th St., P.O. Box 5803, Lincoln, NE 68505. Representative: J. Max Harding (same address as applicant) 402–467–5365.Transporting *such commodities*, as are dealt in or used by manufacturers and distributors of building materials, between points in the U.S. (except AK and HI), under continuing contract(s) with Donn Corporation, of Westlake, OH.

Note.—This republication is to correct the territory description.

MC 153673 (Sub-4), filed September 16, 1982. Applicant: KENTUCKY SPECIALIZED HAULERS, INC., Rte 3, Box 156–A, Hardinsburg, KY 40143. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440, (216) 652–2789. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under a continuing contract(s) with U.S. Dismantling Co., of Brecksville, OH.

MC 160942 (Sub-1), filed September 16, 1982. Applicant: DESTINY PARCEL SERVICE, INC., 525 Friendly Rd., Pontiac, MI 48053. Representative: Eugene C. Ewald, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013, (313) 645–9600. Transporting (1) *printed matter*, between points in the Lower Peninsula of MI, and (2) *photographic equipment and supplies*, (a) between Cleveland, OH, on the one hand, and, on the other, points in the Lower Peninsula of MI, and (b) between points in the Lower Peninsula of MI.

MC 162202, filed September 9, 1982. Applicant: D AND C TRUCKING, 862 Alexander St., Livermore, CA 94550. Representative: Cecil M. Galloway (same address as applicant), (415) 449–4089. Transporting (1) *containers and lumber mill products*, between Prineville, OR, San Francisco, Richmond and Oakland, CA, on the one hand, and, on the other, points in CA and OR, under continuing contract(s) with Michiels International, of Redding, CA, and (2) *toys, stuffed animals, wooden plaques, and novelties*, between Richmond, Oakland, and San Francisco, CA, on the one hand, and, on the other, Santa Roas, CA, and points in Los Angeles County, CA, under continuing contract with Russ Berrie & Company West Incorporated, of Santa Rosa, CA.

MC 162932, filed September 16, 1982. Applicant: A & G CHARTER BUS SERVICE, INC., 3537 South Wabash Ave., Chicago, IL 60653. Representative: Douglas G. Brown, 913 South 6th St., Springfield, IL 62703, 217–753–3925. Transporting *passengers and their baggage*, in roundtrip charter operations, between points in Cook, Du Page, Lake, and Will Counties, IL, on the one hand, and, on the other, points in the U.S.

MC 163772, filed September 7, 1982. Applicant: STIRLING'S PANCAKE HOUSE, INC., d.b.a. STIRLING FOOD SYSTEMS, 372 W. Grant St., Orlando, FL 32806. Representative: A. E. Stirling (same address as applicant), 305–425–2851. Transporting *food and related products*, between Charlotte, NC, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, KY, LA, MD, MA, MS, NJ, NY, NC, OH, PA, RI, SC, TN, VA, and WV.

MC 163862, filed September 16, 1982. Applicant: DAVID & ORILLA CROPP, d.b.a. U & I TRUCKING, P.O. Box 327, Craig, AK 99921. Representative: David Cropp (same address as applicant), 907–755–2992. Transporting (1) *construction and logging machinery, materials, equipment, and supplies*, and (2) *drilling materials, equipment, and supplies*, between points on Prince of Wales and Revillagige do Islands, AK, on the one hand, and, on the other, points in the U.S. (except HI).

MC 163882, filed September 17, 1982. Applicant: SCORPIO BUS TOURS, Box 148, Richboro, PA 18954. Representative: Robert J. Bennett, 160 W. Buttonwood Drive, Churchville, PA 18966, 215–322–4850.Transporting *passengers and their baggage*, beginning and ending at Philadelphia, PA, and points in Bucks County, PA, and extending to Atlantic City, NJ.

Please direct status inquiries about the following to Team 3, (202) 275–5223.

Volume No. OP3–145

Decided: September 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, William, and Ewing.

FF–615, filed September 2, 1982. Applicant: POWERS FREIGHT FORWARDERS, INC., Suite 250, 6425 Powers Ferry Road, Atlanta, GA 30339. Representative: T. Dennis Connally (same address as applicant), (404) 955–8600. As a *freight forwarder* transporting

construction equipment, between points in the U.S. (except AK and HI).

MC 2934 (Sub-123), filed September 7, 1982. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 No. Michigan Rd., Carmel, IN 46032. Representative: W.G. Lowry (same address as applicant), (317) 875–1142. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with General Dynamics Corporation of St. Louis, MO.

MC 16334 (Sub-23), filed September 3, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212, (913) 888–3386. Transporting *chemicals and related products*, between points in IL, KS, LA, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121395 (Sub-2), filed September 8, 1982. Applicant: PMS TRANSPORTATION CO., 110 East Chicago Ave., Westmont, IL 60559. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *pulp, paper, printer matter, plastic, plastic articles, and related products*, between Minneapolis, MN, Chicago and Peoria, IL, St. Louis, MO, and Detroit, MI, and points in Fond du Lac County, WI, Clinton County, IA, and Wayne and Warren Counties, OH, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, OH, and WI.

MC 133805 (Sub-70), filed September 7, 1982. Applicant: UNITED CARGO EXPRESS, INC., 5340 Loop 820 S, Fort Worth, TX 76119. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112, (817) 457–0804. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 136635 (Sub-72), filed September 7, 1982. Applicant: WHITEFORD TRUCK LINES, INC., 640 W. Ireland Rd., South Bend, IN 46680. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *building materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with Rose & Walker, Inc. of Bloomington, IN.

MC 141344 (Sub-4), filed September 2, 1982. Applicant: ALLEN TRANSPORT CORPORATION, Route 1, Box 155C, Glen Allen, VA 23060. Representative: Paul D. Collins, 7761 Lakeforest Drive, Richmond, VA 23235, (804) 745–0446. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Cogenic Energy Systems, Inc. of New York, NY, (2) E.P.I., Inc., of Mechanicsville, VA, (3) International Tubular Products Co. of Ashland, VA, (4) Pillard, Inc., of Richmond, VA, (5) Potts Welding & Boiler Repair Co. of New Castle, DE, (6) Southern Energy, Inc., of Jacksonville, FL, (7) Universal Machinery Co., of New Orleans, LA, and (8) Virginia Tractor Co., Inc., of Richmond, VA.

MC 143915 (Sub-4), filed September 1, 1982. Applicant: KAPTUR ENTERPRISES, LTD., 2250 E. 198th St., Lynwood, IL 60411. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312) 236–5944. Transporting *clay, concrete, glass or stone products*, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 146985 (Sub-22), filed September 8, 1982. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 S. Main St., P.O. Box 1614, Elkhart, IN 46515. Representative: Phillip A. Renz, Suite 200, Metro Bldg., Fort Wayne, IN 46802, (219) 423–3595. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with S. R. Tiemouri & Co., Inc. of Cleveland, OH

MC 157965 (Sub-1), filed September 8, 1982. Applicant: GRIGGS TRUCKING, 2340 Farwell Rd., Des Moines, IA 50317. Representative: Kenneth G. Griggs (same address as applicant), (515) 266–1910. Transporting *printed matter, paper and related products*, between points in the U.S. (except AK and HI).

MC 161634 (Sub-1), filed September 7, 1982. Applicant: SUNDANCE EXPRESS CORPORATION, P.O. Box 157, Mableton, GA 30059. Representative: Clayton R. Byrd, 2870 Briarglen Dr., Doraville, GA 30340, (404) 491–1696. Transporting (1) *food and related products*, (2) *printed matter*, (3) *textile mill products* and (4) *rubber and plastic products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Country Home Bakery, Inc. of Bridgeport, CT, I. P. D. Printing & Distributing, Inc. of Chamblee, GA, Walls Industries, Inc. of Cleburne, TX and Warrenton Rubber Company of Warrenton, GA.

MC 162455, filed September 7, 1982. Applicant: CASWELL TRUCKING, INC., Rt. 1, Box 30, St. Charles, IA 50240. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *such commodities* as are dealt in by grocery houses, between points in IL, IA, MN, MO, NE and SD, on the one hand, and, on the other, points in AR, CT, IL, IN, KS, MA, ME, MI, MN, MO, NE, NJ, NY, OH, OK, PA, RI, SD, TX and WI.

MC 163725 filed September 7, 1982. Applicant: AIRPORT TRANSPORTATION, CO., INC., P.O. Box ATC, Nobleboro, ME 04555. Representative: Robert D. Havenstein, 1 Leeman Hwy, Bath, ME 04530, (207) 443–3029. Transporting *passengers and their baggage*, in special operations, between points in Androscoggin, Cumberland, Lincoln and Sagadahoc Counties, ME and points in MA.

Volume No. OP3–146

Decided: September 20, 1982.

By the Commission, Review Board Number 2, Members Carleton, Williams, and Ewing.

FF 324 (Sub-3), filed September 7, 1982. Applicant: IMPERIAL VAN LINES INTERNATIONAL, INC., 2805 Columbia St., Torrance, CA 90523. Representative: Alan F. Wohlstetter 1700 K St., NW, Suite 301, Washington, DC 20006, (202) 833–8884. As a *freight forwarder*, transporting *general commodities* (except used household goods, unaccompanied baggage, used automobiles, and classes A and B explosives), between points in the U.S.

MC 1515 (Sub-315), filed September 3, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: J. D. Kimmey (same address as applicant), (602) 248–6588. Over *regular routes*, transporting *passengers and their baggage and express and newspapers*, in the same vehicle with passengers, (1) between junction Wisconsin Hwy 54 and Wisconsin Hwy 13 and junction Wisconsin Hwy 54 and U.S. Hwy 51: From junction Wisconsin Hwy 54 and Wisconsin Hwy 13 over Wisconsin Hwy 54 to junction U.S. Hwy 51 and return over the same route, serving all immediate points, (2) between junction Wisconsin Hwy 13 and Wisconsin Hwy 54 and junction Wisconsin Hwy 13 and Wisconsin Hwy 16: From junction Wisconsin Hwy 13 and Wisconsin Hwy 54 over Wisconsin Hwy 13 to junction Wisconsin Hwy 16 and return over the same route, serving all intermediate points, and (3) between junction Wisconsin Hwy 29 and Wisconsin Hwy 13 and Eau Claire, WI: From junction Wisconsin Hwy 29 and Wisconsin Hwy 13 over Wisconsin Hwy 29 to junction U.S. Hwy 53, then over U.S. Hwy 53 to Eau Claire, WI, and return over the

same route, serving all intermediate points. Applicant intends to tack this authority to its existing authority in MC-1515.

MC 16334 (Sub-24), filed September 7, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212, (913) 888-3386. Transporting *clay, concrete, glass or stone products,* between points in Lake County, IN, Merrimack County, NH, Shelby County, TN, Linn County, KS, Marshall County, WV, Hudson County, NJ, Milam County, TX, Hillsborough County, FL, Mobile County, AL, Muhlenberg County, KY, and Douglas County, OR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 16334 (Sub-25), filed September 9, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212, (913) 888-3386. Transporting *batteries, metal and metal products,* and *rubber and plastic products,* between points in Arapahoe and Denver Counties, CO, on the one hand, and, on the other, points in KS, NE, MO, TX, IL, OK and LA.

MC 17605 (Sub-6), filed September 8, 1982. Applicant: RONALD E. WATSON, d.b.a. R. E. WATSON TRUCKING, Post Office Box 217, Ross, OH 45061. Representative: Stephen L. Oliver, 275 E. State St., Columbus, OH 43215, (614) 228-8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Champion International of Stamford, CT.

MC 41915 (Sub-49), filed September 9, 1982. Applicant: MILLER'S MOTOR FREIGHT, INC., 1100 Lafayette St., York, PA 17405. Representative: Christian V. Graf, 407 N Front St., Harrisburg, PA 17101, (717) 236-9318. Transporting *food and related products,* between points in York County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 55865 (Sub-4), filed September 7, 1982. Applicant: A.L. & MOORE TRUCKING COMPANY, INC., 5215 Benton Rd., P.O. Box 5006, Bossier City, LA 71111. Representative: Phillip M. Moore (same as applicant), (318) 746-0752. Transporting *(1) Mercer commodities,* (a) between points in LA, AR, AL, MS and OK and (b) between points in LA, AR, AL, MS and OK, on the one hand, and, on the other, points in TX and (2) *pipe, pipe line materials, machinery and equipment,* incidental to and used in connection with the construction, repairing and dismantling of pipe lines, including the stringing of pipe, between points in LA, TX and OK.

MC 62824 (Sub-9), filed September 8, 1982. Applicant: SPARTAN EXPRESS, INC., P.O. Box 1089, Greer, SC 29651. Representative: Roy F. Chason (same address as applicant), (803) 879-4211. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, FL, GA, MS, NC, SC, TN, and VA, on the one hand, and, on the other, points in the U.S.

MC 111274 (Sub-89), filed August 27, 1982. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 351, Morton, IL 61550. Representative: Frederick C. Schmidgall (same address as applicant), (309) 266-9773. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Condition: Applicant's permits under MC-111274, issued August 18, 1977, (Sub 11), issued September 26, 1977, (Sub 18), issued March 12, 1979, (Sub 20), issued April 17, 1978, (Sub 24), issued May 18, 1978, (Sub 29), issued November 22, 1978, (Sub 31), issued December 26, 1979, (Sub 33), issued July 24, 1980, (Sub 35), issued July 21, 1980, (Sub 39), issued April 9, 1980, (Sub 40), issued April 9, 1980, (Sub 42), issued October 6, 1980, (Sub 44), issued July 21, 1980, (Sub 45), issued October 6, 1980, (Sub 51), issued July 21, 1980, (Sub 52), issued August 25, 1980, (Sub 53), issued September 26, 1980, (Sub 54), issued July 21, 1980, (Sub 55), issued September 11, 1980, (Sub 60), issued January 12, 1981, (Sub 62), issued January 12, 1981, (Sub 63), issued April 17, 1981, (Sub 64)X, issued March 27, 1981, (Sub 65), issued April 24, 1981, (Sub 66), issued June 3, 1981, (Sub 67)X, issued May 1, 1981, (Sub 68)X, issued May 5, 1981, (Sub 69)X, issued May 29, 1981, (Sub 70)X, issued May 5, 1981, (Sub 71), issued June 23, 1981, (Sub 72), issued June 26, 1981, (Sub 73), issued July 9, 1981, (Sub 74), issued July 9, 1981, (Sub 76), issued June 10, 1982, (Sub 78), issued December 29, 1981, (Sub 79), issued March 18, 1982, (Sub 80), issued March 18, 1982, (Sub 81), issued March 31, 1982, (Sub 82), issued April 29, 1982, (Sub 83), issued May 28, 1982, (Sub 84), issued June 2, 1982, (Sub 85), issued June 28, 1982, (Sub 86), issued June 28, 1982, and (Sub 87), issued July 19, 1982, are revoked.

MC 128205 (Sub-109), filed September 7, 1982. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 South Doty Avenue, Chicago, IL 60628. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave. NW., Suite 500, Washington, DC 20006, (202) 828-5015. Transporting *commodities in bulk,* between points in the U.S. (except AK and HI).

MC 128685 (Sub-44), filed September 3, 1982. Applicant: DIXON BROS., INC., P.O. D. 8, Newcastle, WY 82701. Representative: Jerome Anderson, 100 Transwestern I, Billings, MT 59101, (406) 248-2611. Transporting *building and construction materials,* between points in the U.S. in and west of OH, KY, MO, AR and LA (except AK and HI).

MC 128685 (Sub-45), filed September 7, 1982. Applicant: DIXON BROS., INC., P.O. D. 8, Newcastle, WY 82701. Representative: Jerome Anderson, 100 Transwestern I Bldg., Billings, MT 59101, (406) 248-2611. Transporting *machinery,* and *electrical machinery, equipment or supplies,* between those points in the U.S. in and west of OH, KY, MO, AR, and LA.

MC 139805 (Sub-7), filed September 2, 1982. Applicant: B MOTOR FREIGHT, INC., 3617A Silverside Rd., Wilmington, DE 19803. Representative: Gerald K. Burns, 3308 Englewood Rd., Wilmington, DE 19810, (302) 575-3741. Transporting *building materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with CertainTeed Corporation, of Valley Forge, PA.

MC 143385 (Sub-4), filed September 9, 1982. Applicant: TRANSPORT ROBERT (1973) LTEE, 150 First Ave—C.P.-39, Rougemont, P. Quebec, Canada JOL 1MO. Representative: Robert D. Schuler, 100 West Long Lake Rd.—Suite 102, Bloomfield Hills, MI 48013, (313) 645-9600. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with Les Industries P.W.I., Inc., of Richelieu, Quebec, Canada.

MC 146285 (Sub-7), filed September 3, 1982. Applicant: JIM CONNER ENTERPRISES, INC., Rt. 37, S., Benton, IL 62812. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544-5468. Transporting *machinery* and *metal products,* between points in the U.S. (except AK and HI).

MC 148335 (Sub-5), filed September 3, 1982. Applicant: RAIL FLITE TRANSPORTATION, INC., 7718 Stevens Rd., Darien, IL 60559. Representative: Alex J. Miller, 555 S. Woodward Ave., Suite 512, Birmingham, MI 48011, (313) 647-3350. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 158124 (Sub-1), filed September 8, 1982. Applicant: CHARLES D. GOODWIN, INC., P.O. Box 1006, Sanford, NC 27330. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288, (919) 635–4711. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, CT, GA, IL, IN, MA, MO, NC, NJ, and NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159194, filed September 8, 1982. Applicant: FRANCES DELIVERY, INC., 1140 Mount Vernon Blvd., Cleveland, OH 44112. Representative: Peter R. Gilbert, 5th Floor, 1000 Potomac St. NW., Washington, DC 20007, (202) 965–7880. Transporting *metal and metal products,* between Cleveland, OH, on the one hand, and, on the other, Perth Amboy, NJ and points in IL, IN, KY, MD, MI, MO, NY, NC, PA, SC, WV, and WI.

MC 159864 (Sub-1), filed September 7, 1982. Applicant: UNITED STAR CORP., 19 Main Street, St. Peters, MO 63376. Representative: W. R. England, III, P.O. Box 456, Jefferson City, MO 65102, (314) 635–7166. Transporting *pulp, paper and related products,* and *printed matter,* between points in St. Charles County, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Texas Stock Tab Co., of Dallas, TX.

MC 162205, filed September 7, 1982. Applicant: J. A. De VOS & SONS, INC., Box 66, Greenbush Rd., North Ferrisburg, VT 05473. Representative: John A. De Vos, Jr. (same address as applicant), (802) 425–3020. Transporting *petroleum, natural gas, and their products,* between points in VT, on the one hand, and, on the other, points in NY and MA, under continuing contract(s) with Wesco Inc., of Burlington, VT.

MC 163254, filed September 7, 1982. Applicant: CORONA TRUCKING CO., INC., 11720 S. Greenstone, Santa Fe Springs, CA 90670. Representative: Ron Adley (same address as applicant), (213) 944–9981. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, WI, and WY.

MC 163484, filed September 7, 1982. Applicant: NORTHERN TRANSPORT, LTD., P.O. Box 471, West Fargo, ND 58078. Representative: Richard P. Anderson, 2525 S. University Drive, P.O. Box 2581, Fargo, ND 58108, (701) 235–3300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Heine Richels Beverages, Inc., of Wahpeton, ND.

MC 163724, filed September 7, 1982. Applicant: M.F.I. TRANSPORT, INC., 1292 Northdale Blvd., Coon Rapids, MN 55433. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contracts with Merchandising Fixtures, Inc., of Coon Rapids, MN, Lieberman Enterprises, Inc. of Minneapolis, MN, Lieberman Music, of Minneapolis, MN, and Carousel Snack Bars, of Minneapolis, MN.

MC 163734, filed September 8, 1982. Applicant: VER–HU, INC., Main St., P.O. Box 38, Ducktown, TN 37326. Representative: Keith J. Verner (same address as applicant), (615) 496–5721. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Polk County, TN, and Fannin County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163735, filed September 8, 1982. Applicant: TRYON TRANSFER, INC., Arrowood Industrial Park, P.O. Box 7111, Charlotte, NC 28217. Representative: A. S. Naples (same address as applicant), (704) 588–1363. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Whitfield County, GA, on the one hand, and, on the other, points in AL, GA and TN.

MC 163755, filed September 9, 1982. Applicant: PLEASANT TOURS, INC., Rt. 4, Box 320, Statesville, NC 28677. Representative: W. F. Johnson (same address as applicant), (704) 876–1175. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in NC, and SC, and extending to points in the U.S. (except HI).

Please direct status inquiries about the following to Team 5, (202) 275–7289.

Volume No. OP5–192

Decided: September 15, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 37918 (Sub-16), filed September 7, 1982. Applicant: DIREST WINTERS TRANSPORT LIMITED, 2 Tipper Rd., Downsview, Ont., CD M3H 5X3. Representative: William J. Hirsch, 64 Niagara St., Buffalo, NY 14202, 716–853–0200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between ports of entry on the international boundary line between the United States and Canada located in NY, on the one hand, and, on the other, points in Albany County, NY.

MC 128539 (Sub-21), filed September 8, 1982. Applicant: EAGLE TRANSPORT CORPORATION, P.O. Box 4508, 3204 Sunset Ave., Rocky Mount, NC 27801. Representative: Robert J. Corber, 1250 Connecticut Ave. NW., Washington, DC 20036, 202–862–2038. Transporting *petroleum and petroleum products,* between points in VA, NC, SC, and GA.

MC 138569 (Sub-7), filed September 8, 1982. Applicant: BRAITHWAITE TRUCKING, INC., 3819 Sunset Dr., Rapid City, SD 57701. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101, 605–339–3629. Transporting *coal,* between points in WY, on the one hand, and, on the other, points in SD.

MC 156779 (Sub-1), filed September 2, 1982. Applicant: PRAIRIE JAYS CHARTER BUS, INC., 1717 Philo Rd., Sunnycrest Mall, Urbana, IL 61801. Representative: Robert J. Brooks, 1828 L St. NW., Suite 1111, Washington, DC 20036, 202–466–3892. Transporting (1) *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, between points in the U.S., and (2) as a *broker* at points in the U.S. in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, between points in the U.S.

MC 161569 (Sub-2), filed September 10, 1982. Applicant: TRANSPORT CONTRACTORS, INC., 2206 Frankfort Ave., Louisville, KY 40206. Representative: Taylor O. Cowan III, 6408 Clinton Highway, Knoxville, TN 37912, (615) 938–5001. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Polymer Resources, Ltd., of Stamford, CT.

MC 163669, filed September 1, 1982. Applicant: SUPERIOR TRAFFIC AND TRANSPORTATION SERVICES, INC., 4109 Valley Station Road, Louisville, KY 40272. Representative: Virgil M. Guy (same address as applicant), (502) 937–6905. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, KY, MI, OH, and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163699, filed September 2, 1982. Applicant: ARKANSAS ALUMINUM ALLOYS, INC., Malvern Road Industrial Park, P.O. Box 1410, Hot Springs, AR 71901. Representative: M. Douglas Wood, 201 W. Broadway, P.O. Box 5606, North Little Rock, AR 72119, (501) 376–3700. Transporting *metal products,* between points in the U.S. (except AK and HI), under continuing contract(s) with A. Tenenbaum, Inc., and Gray Supply Company, both of North Little Rock, AR.

Volume No. OP5–194

Decided: September 16, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 41098 (Sub-84), filed September 8, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, DC 20006, (202) 833–8884. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. under continuing contract(s) with International Business Machines Corporation of Armonk, NY.

MC 105159 (Sub-51), filed September 8, 1982. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main St., Red Wing, MN 55066. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402, (612) 333–1341. Transporting *building materials,* between points in IA, IL, IN, MI, MN, MO, ND, OH, SD, and WI.

MC 114028 (Sub-47), filed September 8, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION CO., INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Carl E. Munson, 469 Fischer Bldg., P.O. Box 796, Dubuque, IA 52001, (319) 557–1320. Transporting *general commodities,* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Wm. C. Brown Publishers of Dubuque, IA.

MC 117878 (Sub-22), filed September 7, 1982. Applicant: DWIGHT CHEEK TRUCKING COMPANY, INC., 4831 E. 25th (P.O. Box 31538), Amarillo, TX 79120. Representative: Steven R. Swicegood (same address as applicant), (806) 374–5217. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Swift Independent Packing Company (SIPCO), of Chicago, IL.

MC 123179 (Sub-6), filed September 8, 1982. Applicant: ARROW FREIGHT LINES, INC., 80 Progress Ave., West Springfield, MA 01089. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103, (413) 732–1136. Transporting *such commodities* as are dealt in or used by a manufacturer or distributor of paper and paper products, between points in the U.S. (except AK and HI), under continuing contract(s) with Laurine Packaging Corp.

MC 126198 (Sub-20), filed September 8, 1982. Applicant: MICHAUD TRUCKING, INCORPORATED, 133 Birch Street, Kingsford, MI 49801. Representative: William J. Bolognesi, P.O. Box 705, Iron Mountain, MI 49801, (906) 774–2209. Transporting *malt beverages,* between points in Franklin County, OH, on the one hand, and, on the other, points in Marquette County, MI.

MC 126869 (Sub-6), filed September 8, 1982. Applicant: M&W TRUCKING, INC., P.O. Box 58 Bowdon, GA 30108. Representative: Robert E. Born, 1447 Peachtree St., NE., Suite 508, Atlanta, GA 30309, (404) 892–8020. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AL, GA, MS, NC, SC, and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 134088 (Sub-1), filed September 10, 1982. Applicant: FORD L. AND MARIE A. WRIGHT, d.b.a., ALL-AMERICAN MOVING & STORAGE, 4340 Highway 51 N. Memphis, TN 38127–3299. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Ste 300, Washington D.C. 20006, 202–466–3778.Transporting *household goods* and *furniture and fixtures,* between points in the U.S. (except AK, HI and VT).

MC 147338 (Sub-4), filed September 9, 1982. Applicant: POWER PACKAGING TRANSPORTATION CORP., 1150 Powis Rd., West Chicago, IL 60185. Representative: Abraham A. Diamond, 29 South LaSalle St., Chicago, IL 60603, 312–236–0548. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).

MC 147978 (Sub-11), filed September 10, 1982. Applicant: SYSTEM REEFER SERVICE, INC., 4614 Lincoln Ave., Cypress, CA 90630. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown , MD 21740, (301) 797–6060. Transporting (1) *chemicals and related products,* and (2) *plastic products,* between points in OH, on the one hand, and, on the other, points in Los Angeles County, CA.

MC 149419 (Sub-1), filed September 10, 1982. Applicant: OSTERBUR TRUCKING, INC., Box 26, Royal, IL 61871. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703, (217) 528–8476. Transporting *paving asphalt and asphalt cement,* between points in Lake County, IN, on the one hand, and, on the other, points in Edgar, Clark, Vermilion, Douglas, and Champaign Counties, IL, under continuing contract(s) with Danville Asphalt Company, Inc. and University Asphalt Company, Inc., both of Urbana, IL.

MC 153929 (Sub-2), filed September 8, 1982. Applicant: MONROE LEASING COMPANY, INC., 3434 Akron-Cleveland Rd., Cuyahoga Falls, OH 44223. Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, AND TX.

MC 154168 (Sub-1), filed September 8, 1982. Applicant: ARTHUR COLE, d.b.a. A. COLE, 81 Mission St., Montclair, NJ 07042. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between ports in NC, VA, DE, MD, PA, NY, NJ, RI, CT, and MA, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NY, NJ, OH, PA, MD, DE, VA, WV, NC, SC, GA, and FL.

MC 157109 (Sub-1), filed September 8, 1982. Applicant: SINGER TRANSPORTATION CO., INC., 373 East Main St., Somerville, NJ 08876. Representative: George A. Olson, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 159348 (Sub-1), filed September 8, 1982. Applicant: RBC TRANSPORTATION, INC., Dug Hill Rd., Rt. 2, Huntsville, AL 35804. Representative: William H. Borghesani, Jr. 1150 17th St. NW., Suite 1000, Washington, DC 20036, (202) 457–1122. Transporting (1) *boxes,* between points in the U.S. (except AK and HI), under continuing contract(s) with Mid-South Container Corp., of Augusta, GA and (2) *pulpboard,* between points in the U.S. (except AK and HI), under continuing

contract(s) with J & J-South Central, of Huntsville, AL.

MC 159438 (Sub-1), filed September 9, 1982. Applicant: FREIGHT EXPRESS, INC., 1511 Lakeside Ave., Cleveland, OH 44115. Representative: Walter L. Stiegele (same address as applicant), (216) 574–2200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, NY, MA, CT, RI, NJ, PA, MD, DE, VA, WV, NC, SC, GA, FL, AL, MS, TN, KY, IN, IL, MI, MO, WI, and DC.

MC 159968 (Sub-1), filed September 7, 1982. Applicant: BORCULO GARAGE, INC., d.b.a. GRASSMID TRANSPORT, 6410 96th Ave., Zeeland, MI 49464. Representative: D. Richard Black, Jr., 285 James St., P.O. Box 638C, Holland, MI 49423, (616) 399–3400. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Henry House, Inc., of Holland, MI.

MC 160819 (Sub-1), filed September 7, 1982. Applicant: R AND A ENTERPRISES, 1414 LaFayette, Waterloo, IA 50701. Representative: Thomas J. Beener, 67 Wall St., Suite 2510, New York, NY 10005, 212–269–2540. Transporting *meat and meat products,* between points in IA, on the one hand, and, on the other, points in CA, WA, OR, CO, TX, AZ, NV, UT, NM, and NE.

MC 163499, filed September 8, 1982. Applicant: KUBIE COBS & TRUCKING, 1172 South 16 St., Blair, NE 68008. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *metal products, machinery, electrical equipment and supplies, rubber and plastic products, and clay, concrete, glass or stone products,* between points in NE and IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163738, filed September 8, 1982. Applicant: NACKAWIC TRANSPORT LTD., Industrial Park, P.O. Box 588, Nackawic, New Brunswick, EOH 1P0 Canada. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101, (207) 773–5651. Transporting *lumber,* between ports of entry on the international boundary line between the United States and Canada at Houlton and Calias, ME, on the one hand, and, on the other, points in Penobscot County, ME, under countinuing contract(s) with Old Town Lumber Company, of Old Town, ME.

MC 163739, filed September 8, 1982. Applicant: FISCHER ENTERPRISES, INC., West Highway 46, P.O. Box 534, Wagner, SD 57380. Representative: Lynn Fischer (same address as applicant), 605–384–5664. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in IL, IN, IA, KS, MI, MN, MO, NE, ND, SD, OH, WI, and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163758, filed Setember 8, 1982. Applicant: AY-LEET TRANSPORTATION SERVICE INC., 100–34 Francis Lewis Blvd., Hollis, NY 11429. Representative: Hamilton A. Jones, (same address as applicant), 212–465–2909. Transporting *passengers and their baggage* in the same vehicle with passengers, in motor vehicles not exceeding 15 passengers (excluding the driver), in charter and special operations, beginning and ending at points in NY, and extending to points in the U.S. (except HI).

MC 163759, filed September 9, 1982. Applicant: KING MOVING & STORAGE CO., P.O. Box 729, Cornelius, OR 97113. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, 503–226–3755. Transporting *Household goods, furniture and fixtures, electrical appliances* and *such commodities* as are dealt in or used by wholesale and retail beauty supply houses, between points in OR, WA, CA, ID, MT, NV, UT, and AZ.

Volume No. OP 5–195

Decided: September 17, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FE–618, filed September 8, 1982. Applicant: AFFILIATED FORWARDERS, INC., 2121 Washington St., Lawton, OK 73502. Representative: Alan F. Wohlstetter, 1700 K St., NW, Suite 301, Washington, DC 20006, (202) 833–8884. As a *freight forwarder* of *used household goods, unaccompanied baggage, and used automobiles,* between points in the U.S. (excluding AK, but including HI).

MC 30139 (Sub-17) filed September 10, 1982. Applicant: HOLMES TRANSPORTATION, INC., 550 Cochituate Road, Framingham, MA 01701. Representative: Joseph M. Klements, 89 State Street, Boston, MA 02109, (617) 523–0800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Plastican, Inc., of Leominster, MA, Kingston-Warren Corp., of Newfields, NH, Oak Materials Group, Inc., of Franklin, NH, International Paper Company, of Manchester, NH, Prevue Products, Inc., of Manchester, NH, Kennebec Building Supply Co., Inc., of Waterville, ME, Moosehead Manufacturing Company, of Monson, ME, Pride Golf Tee Company, of Guilford, ME, Pride Manufacturing Company, of Guilford, ME, J-VON, Division of Jones and Vining, of Leominster, MA, Inmont Corporation, of Somerville, MA, Natgun Corp., of Wakefield, MA, Mass. Cotton Products, Inc., of Melrose, MA, ITT Surprenant, of Clinton, MA, Axton Cross Company, of Holliston, MA, Webb Converting, Inc., of Framingham, MA, Sarnafil, U.S. Inc., of Canton, MA, and Anchor Electric Company, of Manchester, NH.

MC 104678 (Sub-7) filed August 20, 1982. Applicant: BROWNIE'S SERVICE, INC., 527 Jones Ave., Oak Hill, WV 25901. Representative: Pat R. Hamilton, P.O. Drawer AA, Oak Hill, WV 25901, (304) 469–2991. Transporting *machinery and machinery parts* between points in WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121818 (Sub-4) filed September 7, 1982. Applicant: REGIONAL STORAGE & TRANSPORT, INC., North Industrial Part, P.O. Box 817, Greenville, NC 27834. Representative: Ralph McDonald, 336 Fayetteville Street Mall, P.O. Box 2246, Raleigh, NC 27602, (919) 828–0731. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NC, on the one hand, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 123808 (Sub-4) filed September 7, 1982. Applicant: GEO. C. POTTERFIELD TRUCKING, INC., 207 County Line Rd., Monroe City, MO 63456. Representative: Randy L. Potterfield, 515 E. Cleveland St., Monroe City, MO 63456, 314–735–4403. Transporting *commodities in bulk,* between points in IA, IL, and MO, on the one hand, and, on the other, points in IA, IL, and MO.

MC 145108 (Sub-66) filed September 7, 1982. Applicant: BULLET EXPRESS, INC., P.O. Box 289, Bay Ridge Station, Brooklyn, NY 11220. Representative: Robert L. Van Buren, Bullet Express, Inc., 5600 First Ave., Brooklyn, NY 11220, (212) 492–7332. Transporting *automotive, air, gas and oil filters* between points in the U.S. (except AK and HI), under continuing contract(s) with Purolator Products, Inc., of Rahway, NJ.

MC 149108 (Sub-2) filed September 9, 1982. Applicant: R. REED TRUCKING, INC., 8383 Croton Rd., Johnstown, OH 43031. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, (614) 464–4103. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between

Columbus, OH, and points in Muskingum County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *such commodities* as are dealt in or used by manufacturers of food and related products between points in the U.S. (except AK and HI).

Volume No. OP5-197

Decided: September 20, 1982.

By the Commission, review Board No. 3, Members Krock, Joyce, and Dowell.

MC FF 338 (Sub-3) filed September 9, 1982. Applicant: ASTRON FORWARDING COMPANY, 1660 Factor Avenue, San Leandro, CA 94577. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006, (202) 833-8884. To operate as a freight forwarder, transporting *general commodities* (except used household goods, unaccompanied baggage and used automobiles, and classes A and B explosives), between points in the U.S.

MC 12779 (Sub-1), filed June 14, 1982 (Previously published in (republication) **Federal Register** on June 30, 1982. Applicant: TRAVELOGUE, INC., 420 West Superior Street, Duluth, MN 55802. Representative: David A. Bailly, 500 Park National Bank Bldg., 5353 Wayzata Blvd., Minneapolis, MN 55416, (612) 544-6116. As a *broker* at Duluth, MN, in arranging for the transportation of *passengers and their baggage,* in special and charter operations, beginning and ending at Duluth, MN, and extending to points in the U.S.

Note.—Purpose of republication is to show this is a broker application.

MC 29748 (Sub-5), filed September 13, 1982. Applicant: M.G. CUMBIE, INC., 5011 Ecoff Ave., Chester, VA 23831. Representative: Paul D. Collins, 7761 Lakeforest Drive, Richmond, VA 23235, (804) 745-0446. Transporting (1) *paper and paper products, and chemicals,* between points in the U.S., (except AK and HI), under continuing contract(s) with Manchester Board & Paper Co., of Richmond, VA, (2) *scrap paper, corrugated boxes and scrap metal,* between points in the U.S., (except AK and HI), under continuing contract(s) with Secondary resources of America, Inc., of Richmond, VA, and (3) *scrap paper, corrugated boxes and cellulose insulation,* between points in the U.S., (except AK and HI), under contiuing contract(s) with Goldman Paper Stock Co., Inc., of Richmond, VA.

MC 37958 (Sub-4), filed September 10, 1982. Applicant: TRENTON LAMBERTVILLE BUS LINE, INC., d.b.a., ONKA'S CHARTER SERVICE, Amwell Road, East Millstone, NJ 08873. Representative: Thomas J. Onka, P.O. Box 191, East Millstone, NJ 08873, (201) 873-2750. Over regular routes, transporting *passengers and their baggage* in same vehicle with passengers, (1) between New Brunswick, NJ and Tamiment, PA, serving all intermediate points: from New Brunswick over NJ Hwy 514 to U. S. Hwy 206, then over U. S. Hwy 206 to Interstate Hwy 80 to U.S. Hwy 209, then over U.S. Hwy 209 to Tamiment, PA, and return over the same route; and (2) between Princeton, NJ, and Tamiment, PA, serving all intermediate points: from Princeton over U.S. Hwy 206 to NJ Hwy 31, then over NJ Hwy 31 to U.S. Hwy 46, then over U.S. Hwy 46 to Interstate Hwy 80, then over Interstate Hwy 80 to U.S. Hwy 209, then over U.S. Hwy 209 to Tamiment, PA, and return over the same route.

MC 41098 (Sub-85), filed September 13, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006, 202-833-8884. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Wang Laboratories, Inc. of Lowell, MA.

MC 52869 (Sub-103), filed September 10, 1982. Applicant: NORTHERN TANK LINE, P.O. Box 970, Miles City, MT 59301. Representative: Michael E. Miller, 15 Broadway, Suite 502, Fargo, ND 58102, (701) 235-4487. Transporting *commodities in bulk* between points in MT, ID, WY, CO, ND, SD, MN, NE, IA, IL, WI, UT, OR, WA, and the Upper Peninsula of MI.

MC 116319 (Sub-20), filed September 7, 1982. Applicant: WASHINGTON TRUCKING, INC., P.O. Box 107, Everette, WA 98241. Representative: Art Wright, (same address as applicant), (206) 259-5115. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AK, AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY.

MC 139469 (Sub-1), filed September 7, 1982. Applicant: TRINITY, INC., 102 Pond St., Natick, MA 01760. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742-3530. Transporting (1) *those commodities which because of their size or weight require the use of special handling or equipment,* (2) *metal products,* and (3) *machinery,* between points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, OH, RI, and VT, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 142119 (Sub-6), filed September 13, 1982. Applicant: COMMERCIAL TRAFFIC SERVICE, INC., 5604 West Ridge Rd., Erie, PA 16506. Representative: John A. Pillar, 1500 Bank Tower 307 Fourth Ave., Pittsburgh, PA 15222, 412-471-3300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in PA, OH, and NY, on the one hand, and, on the other points in the U.S. (except AK and HI).

MC 146728 (Sub-8), filed September 7, 1982. Applicant: GOLDEN BROS., INC., 335 West Irving Park Road, Kewanee, IL 60172. Representative: Abraham A. Diamond, 29 South La Sale St., Chicago, IL 60603, (312) 236-0548. Transporting *metal products and machinery,* between points in the U.S. (except HI).

Note.—The purpose of this application is to convert existing permits into certificates.

MC 148158 (Sub-18), filed September 8, 1982. Applicant: CONTROLLED DELIVERY SERVICE, INC., 17295 E. Railroad Ave., City of Industry, CA 91749. Representative: Robert L. Cope, 1730 M St., NW., Suite 501, Washington, DC 20036, (202) 296-2900. Transporting, *general commodities* (except classes A and B explosives), between points in the U.S.

Note.—The purpose of this application is to convert existing permits into certificates.

MC 155118 (Sub-11), filed September 10, 1982. Applicant:T. D. S. TRANSPORTATION, INC., 1700 S. Wolf Rd., Des Plaines, IL 60018. Representative: Julie L. Roper, (same address as applicant), 312-298-8800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Freight Distribution Services, Inc., of Los Angeles, CA; Mankato Corporation & Bemis Company of Mankato, MN; J. A. Tucker Co., of Westville, NJ; C. R. Anthony Company of Oklahoma City, OK; National Carrier Service, of Anaheim, CA; Metroplex Foam Molding Company of Mansfield, TX, and Our Own Hardware Company of Burnsville, MN.

MC 153478 (Sub-1), filed September 7, 1982. Applicant: S & W MOTOR SERVICES, INC., 6128 W. 80th Pl., Bridgeview, IL 60459. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Rd., Downers Grove, IL 60515, 312-953-0330. Transporting *general commodities* (except classes A and B explosives,

household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Poly Enviro Lab, Inc. and Formax, Inc. both of Mokena, IL; Joseph Fuller & Co., of Chicago, IL; House of Fabrics of S.C., Inc. of Mauldin, SC, and General Nutrition Corporation of Pittsburgh, PA.

MC 157459 (Sub-2), filed September 14, 1982. Applicant: LEWIS C. HOWARD, INC., 760 E. Vine St., Kalamazoo, MI 49001. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, 616–459–6121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with Clark Equipment Company of Buchanan, MI.

MC 159469 (Sub-1), filed September 8, 1982. Applicant: WILLIAM A. CIMPI, 7156 Eastman Rd., Syracuse, NY 13212. Representative: Martin R. Martino, 333 South Glebe Rd., Arlington, VA 22204, (703) 979–1627. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, NJ, CT, MA, NY, PA, VA, MD, MI, IN, and OH.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–26557 Filed 9–27–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-No. 275)]

Rail Carriers; Baltimore and Ohio Railroad Company Exemption for Supplement 2 to Contract Tariff ICC-BO-C-0024 (Soda Ash)

AGENCY: Interstate Commerce Commission

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

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

Authority: 49 U.S.C. 10505.

Decided: September 22, 1982.

By the Commission, Review Board Number 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–26559 Filed 9–27–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-No. 277)]

Rail Carrier; Burlington Northern Railroad Company Exemption for Contract Tariff ICC-BN-C-0013-A (Soda Ash)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

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

Authority: 49 U.S.C. 10505.

Decided: September 22, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–26560 Filed 9–27–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30022]

Rail Carriers; Chicago and North Western Transportation Co.—Trackage Rights Exemption—Over Duluth, Missabe & Iron Range Railway Co.; Notice of Exemption

September 21, 1982.

Chicago and North Western Transportation Company (CNW) seeks exemption of a trackage rights agreement from the prior approval requirements of 49 U.S.C. 11343, which will allow CNW to operate over a 5.26-mile segment of rail line owned by the Duluth, Missabe and Iron Range Railway Company (DMIR) between Saunders and South Itasca, WI. CNW's request is being treated as a petition seeking exemption under 49 CFR 1111.2(d)(5).

On June 10, 1982, CNW and DMIR signed an agreement granting CNW trackage rights over DMIR's track. The trackage rights is in substitution for a portion of the trackage rights which CNW currently has over a line of the Burlington Northern Railroad Company (BN) between St. Paul, MN and Allouez, WI.[1] The proposed trackage rights will permit CNW to leave BN's track at Saunders and by-pass BN's Allouez Yard and Taconite Facility. CNW indicates that a petition to amend the Commission's decision in Finance Docket No. 29732 to exclude the Allouez segment will be filed with the Commission shortly.[2] BN has agreed to

[1] These trackage rights were exempted from prior approval in Finance Docket No. 29732, *Chicago and North Western Transportation Company—Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 11343* (not printed), served October 27, 1981.

[2] We note that a petition to amend Finance Docket No. 29732 would be unnecessary. Our exemption of the proposed transaction under 49 CFR 1111.2(d)(5) would include an exemption from

the proposed change. The instant proposal involves only a grant of "bridge" trackage.

The proposed transaction is an exempt transaction pursuant to 49 CFR 1111.2(d)(5). Essentially, it is a joint project between CNW, DMIR, and BN involving relocation of a line of railroad. The relocation will not disrupt any existing service to shippers of communities. Thus, it is an exempt transaction pursuant to 49 CFR 1111.2(d)(5). See *Railroad Consolidation Procedures*, 366 I.C.C. 75, 94 (1982).

As a condition to the use of this exemption, any employees affected by the trackage rights shall be protected pursuant to *Norfolk & Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 650 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980) and any employees affected by CNW'S abandonment will be protected by the conditions embodied in *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26556 Filed 9-27-82; 8:45 am]

BILLING CODE 7035-01-M

[AB 3 (SDM) [1]]

Rail Carriers; Missouri Pacific Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Missouri Pacific RR. Co. and Subsidiaries has filed with the Commission its amended color-coded system diagram map in docket No. AB 3 SDM. The Commission on September 16, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 3 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26554 Filed 9-27-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 287 (Sub-No. 276)]

Seaboard Coast Line Railroad Co.; Exemption for Contract Tariff ICC-SCL-C-0039 (Dry and Liquid Phosphate)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions.

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

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

Authority: 49 U.S.C. 10505.

Decided: September 22, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26558 Filed 9-27-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree Lodging Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on September 3, 1982 a proposed consent decree in *United States* v. *Port ConAgra, Inc.*, was lodged with the United States District Court for the District of Minnesota. The proposed decree provides for compliance with the Clean Air Act and with the federally approved Minnesota State Implementation Plan for opacity and emission of particulate matter at a grain handling facility located at 3750 Washington Avenue North, Minneapolis, Minnesota. The proposed decree sets forth a schedule for installation of pollution control equipment and for final achievement with opacity and particulate standards no later than July 1, 1982.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Port ConAgra, Inc.*, D.J. Ref. 90-5-2-1-505.

The proposed decree may be examined at the office of the United States Attorney, District of Minnesota, 234 U.S. Courthouse, 110 South 4th Street, Minneapolis, Minnesota and at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois. A copy of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section,

---

the requirements of 49 USC 10903-1096 of the discontinuance of operations over the Allouez segment, subject to the appropriate labor protective conditions.

[1] AB 3 (SDM) includes all Missouri Pacific Railroad Co. subsidiaries: AB 21 (SDM), Abilene & Southern Railway Company, Chicago Heights Terminal Transfer Company, Doniphan, Kensett and Searcy Railway Company; AB 24, Fort Worth Belt Railway Company, Missouri-Illinois Railroad Company; AB 142 (SDM), New Orleans and Lower Coast Railroad Company, St. Joseph Belt Railway Company AB 22 (SDM), Texas-New Mexico Railway Co.; AB 23, Texas Pacific-Missouri Pacific Terminal Railroad of New Orleans, Union Terminal Railway Company; AB, Weatherford Mineral Wells & Northwestern Railway Company.

Land and Natural Resources Division of the Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-26571 Filed 9-27-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of application involving the establishement of branch plants or facilities, the potential effect of such new facilities in other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Richard C. Gilliland, Administrator, U.S. Employment Service, Employment and Training Administration, 601 D Street, N.W., Room 8000—Patrick Henry Building, Washington, D.C. 20213.

Signed at Washigton, D.C., this 23rd day of September 1982.

Robert S. Kenyon,

Director, Office of Program Operations.

Applications received during the week ending September 25, 1982:

Name of applicant and location of enterprise: McBee-Bryant Textiles, Inc., Shelby, Mississippi.

Principal product or activity: Manufacture of mop yarn.

[FR Doc. 82-26543 Filed 9-27-82; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Media Arts Advisory Panel; Meeting Cancellation

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Media Arts Advisory Panel was to be held on September 28, 1982, from 9:00 a.m.-5:00 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506 is hereby cancelled.

This meeting was to be open to the public on a space available basis. The topic for discussion was to be Year End Reports for Radio Division, Programming in the Arts and Media Arts Division FY 1984 Guideline Discussion.

Further information with reference to this cancelled meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

September 21, 1982.

[FR Doc. 82-26569 Filed 9-27-82; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Subpanel for Social and Developmental Psychology; Notice of Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel for Social and Developmental Psychology, Advisory Panel for Behavioral and Neural Sciences.

Date and time: October 14-15, 1982—9:00 a.m. to 5:00 p.m. each day.

Place: Room 1224, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Jean B. Intermaggio, Program Director, Social and Developmental Psychology, Room 320, National Science Foundation, Washington, D.C. 20550, 202-357-9485.

Purpose of advisory panel: To provide advice and recommendations concerning support for research in Social and Developmental Psychology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82-26592 Filed 9-27-82; 8:45 am]

BILLING CODE 7555-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council Laboratory Review Panel; Meeting

Notice is hereby given that the Panel named above will meet on October 7, 1982 in Room 10103, New Executive Office Building, 17th St. and Pennsylvania Avenue, N.W.; Washington, D.C. 20500.

The meeting will be from 9:00 a.m. to 4:00 p.m. It will be open to the public from 9:00 a.m. to 11:00 a.m. The Panel will discuss with the representatives of the Department of Energy (DOE) and the Energy Research Advisory Board (ERAB) the management of DOE laboratories and the findings of ERAB's review of DOE laboratories.

The afternoon meeting will be closed to the public. The Panel will be discussing with representatives of the National Aeronautics and Space Administration and the President's Private Sector Survey internal personnel practices along with other matters of a personal nature. The premature disclosure of such information could significantly frustrate the implementation of proposed agency actions. Authority for closing: 5 U.S.C. 552(c)(2); 552(c)(6) and 552(c)(9)(B).

Because of security in the New Executive Office Building, persons wishing to attend the meeting should contact Mrs. Minh-Triet Lethi, Senior Policy Analyst, OSTP, (202) 395–4626 prior to 12:00 noon on October 6. Mrs. Lethi is also available to provide further information regarding the Laboratory Review Panel.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

September 23, 1982.

[FR Doc. 82–26848 Filed 9–23–82; 4:45 am]

BILLING CODE 3170–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22626A; 70–6771, 70–6775]

Arkansas Power & Light Co. and Southwestern Electric Power Co.; Supplemental Notice Correcting Error in File Number

In the matter of Arkansas Power & Light Co., P.O. Box 551, First National Bank Building, Little Rock, Arkansas 72203, and Southwestern Electric Power Col, P.O. Box 21106, 428 Travis Street, Shreveport, Louisiana 71156.

In the notice issued on September 2, 1982 (HCAR No. 22626) in this proceeding, the captioned file number (70–6775) was incorrect and should have read (70–6771).

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–26538 Filed 9–27–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19033; (File No. SR–NSCC–82–20]

Filing and Immediate Effectiveness of a Proposed Rule Change by the National Securities Clearing Corporation

September 3, 1982.

The National Securities Clearing Corporation ("NSCC") filed a proposed rule change on August 12, 1982, pursuant to Rule 19b–4 under the Securities Exchange Act of 1934, that requires NSCC participants more frequently than in the past to pay NSCC "federal funds" (*i.e.*, same-day funds), rather than "clearing house funds" (*i.e.*, next-day funds), for money differences between the amount of settlement monies due NSCC from a participant on a settlement day and the actual amount paid that settlement day. Under the proposed rule change, the threshold over which federal funds payment is required to be made has been reduced from $500,000 to $100,000. In its filings, NSCC stated that the proposed rule change is designed to effect timely receipt of settlement monies by NSCC.

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 and Rule 13b–4 thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate the 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.

Publication of the submission is expected to be made in the **Federal Register** during the week of September 6, 1982. Interested persons are invited to submit written data, views and arguments concerning the submission within twenty-one days from the date of publication in the **Federal Register**. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–NSCC–82–20.

Copies of the submission, with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing will also be available 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. 82–26537 Filed 9–27–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–19063; File No. SR–OCC–82–18]

Self-Regulatory Organizations; the Options Clearing Corp.; Relating to the Requirement of an Authorization Stamp on Clearing Member Input Documents

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 8, 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 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 the Proposed Rule Change

The proposed rule change would require Clearing Members to use a new OCC approved authorization stamp on various input documents. Clearing Members will have their choice of either an OCC-provided authorization stamp or a member-selected stamp in an OCC-approved format. OCC will provide each Clearing Member with two stamps at no charge. Any additional stamps will be provided to Clearing Members at OCC's cost.

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 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. 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 aid OCC's staff in authenticating documents submitted by Clearing Members and to minimize the risk that documents containing unauthorized or fraudulent signatures might be accepted by OCC.

The proposed rule change would enhance OCC's capacity to safeguard securities and funds in its custody or control or for which it is responsible by reducing the risk that OCC personnel may inadvertently accept unauthorized or fraudulent documentation. The proposed rule change would also improve OCC's capacity to facilitate the prompt and accurate clearance and settlement of securities transactions by eliminating processing delays caused by the need to verify signatures and reject documents.

(B) Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Comments on the Proposed Rule Change Received from Members, Participants, or Others

Fifteen to twenty Clearing Members were canvassed by telephone with respect to the implementation of the proposed authorization stamp. No negative comments were 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 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, 450 Fifth Street, NW., 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, 450 Fifth 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 on or before October 19, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26539 Filed 9-27-82; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

September 22, 1982.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Coleco Industries, Inc.
Common Stock, $1 Par Value (File No. 7-6320)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 14, 1982 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26536 Filed 9-27-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12677; (812-5245)]

Tucker Anthony Group of Tax Exempt Funds; Filing of an Application for an Order Pursuant to Section 6(c) of the Act for Exemption From Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 Thereunder

September 20, 1982.

Notice is hereby given that Tucker Anthony Group of Tax Exempt Funds ("Applicant"), Three Center Plaza, Boston, Massachusetts 02108, a Massachusetts business trust registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on July 13, 1982, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the exent necessary to permit Applicant to value its portfolio securities using the amortized cost method of valuation. 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 is a "series" money market fund that will offer a means of investing in a professionally-managed portfolio consisting primarily of specified types of short-term securities exempt from federal income tax, with the objective of obtaining as high a level of current income exempt from federal income tax as is consistent with the preservation of capital and liquidity. The application states that Applicant has only one series, but may add other series in the future. Applicant represents that it will invest primarily in a broad range of short-term securities and instruments issued by state and local governments and public authorities including: securities sold by state or municipal governments and public authorities as interim financing in anticipation of tax collections, revenue receipts or bond sales; project notes which are secured by the full faith and credit of the United States; and commitments to purchase the foregoing securities and investments on a "when-issued" basis. Applicant declares that its custodian will set aside, in a separate

account, cash or portfolio securities equal to the amount of Applicant's when-issued commitments. Applicant further states that, for liquidity reasons or for defensive purposes during abnormal market conditions, it may invest in obligations of the United States government, its agencies, instrumentalities or authorities; prime commercial paper; certificates of deposit of domestic banks with assets of $1 billion or more; and repurchase agreements with respect to any securities that Applicant is permitted to own.

Applicant states that a proliferation of tax-exempt mutual funds has significantly increased the demand for short-term tax-exempt instruments and, as a result, available yields on such instruments have declined. At the same time, according to Applicant, certain issuers of tax-exempt instruments have sought to lengthen their terms in order, among other things, to decrease the transaction costs associated with repeated short-term issues. According to the application, in order to induce longer term borrowing relationships, issuers have begun offering higher yields on variable rate or floating rate notes containing a demand feature allowing either party to terminate the obligation within relatively short notice periods. Applicant believes that the acquisition of such variable rate or floating rate demand notes would provide shareholders with a higher tax-exempt return without subjecting them to increased investment risk.

Applicant proposes to acquire, normally in negotiated transactions with the issuers, tax-exempt variable rate or floating rate demand notes having the following features: (1) Each note would have an interest rate determined by a prescribed formula and adjusted at periodic intervals not to exceed one year in the case of a variable rate note or adjusted whenever some set interest rate changes in the case of a floating rate note; (2) Applicant could at any time demand prepayment of the unpaid principal balance plus accrued interest thereon and would be entitiled to prepayment within a prescribed notice period not to exceed seven calendar days; (3) the adjustment feature on a variable rate note will be such that, in the opinion of the board of trustees, whenever a new rate is established it will cause the instrument to have a current market value which approximates its par value; (4) the floating rate feature on a floating rate note will be such that, in the opinion of the board of trustees, it ensures that the market value will always approximate par value; (5) absent an earlier exercise by the Applicant of its prepayment privileges (or exercise of a prepayment privilege by the issuer, if any) the principal and interest under each note would be payable on a date exceeding one year from the date of purchase by Applicant; (6) each note purchased by Applicant would be determined under procedures prescribed by Applicant's board of trustees to present minimal credit risks and would be rated by a major rating service within its two highest rating categories or, if not rated, would be determined by the board of trustees to be comparable to tax-exempt securities which are of "high quality" (i.e., within the two highest ratings assigned by any major rating service). Applicant states that the issuer's obligation to pay principal on its notes would be supported by an irrevocable, unconditional external agreement (normally a bank letter of credit) where necessary to ensure that the notes were of "high quality" (i.e., in all cases where the board of trustees could not determine that a note is of "high quality" without a letter of credit). If such an external agreement is a feature of a note when it is purchased, the note would always be supported by such external agreement unless the rating of the note rose to within the two highest grades without the external agreement. Applicant represents that its board of trustees will reevaluate its variable rate or floating rate demand notes (or the debt securities of the backing banks) not less frequently than quarterly to ensure that they are of high quality. Applicant further represents that it will dispose of any note (by exercising the demand privilege where beneficial) where, due to an adverse change in the issuer's credit, Applicant's board of trustees or any rating service concluded that the note was no longer of "highest quality".

Applicant proposes to acquire variable rate or floating rate demand notes as described above and to consider the maturity of such notes, for purposes of computing its dollar-weighted average portfolio, as: (i) the longer of the period remaining until the principal amount can be recovered through demand or the period remaining until the note's next interest rate adjustment in the case of variable rate demand notes, and (ii) the period remaining until the principal amount can be recovered through demand in the case of floating rate demand notes.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (i) with respect to securities for which market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of security for redemption or of an order to purchase or sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors. The Commission has expressed the view that, among other things: (i) Rule 2a–4 under the Act requires that portfolio instruments of money market funds be valued with reference to market factors, and (ii) it would be inconsistent, generally, with the provisions of Rules 2a–4 for a money market fund to value its portfolio instruments on an amortized cost basis. (Investment Company Act Release No. 12206, February 1, 1982; Investment Company Act Release No. 9786, may 31, 1977). In view of the foregoing, Applicant requests an exemption from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to use the amortized cost method to value its portfolio securities.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditioinally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary to appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisons of the Act.

In support of the relief requested, Applicant submits that use of the amortized cost method of valuing its portfolio securities, including variable rate and floating rate demand notes, subject to the conditions enumerated above, offers its shareholders the conveniences and advantages of a stable purchase and redemption price of $1.00 per share. In so doing, Applicant states, adequate liquidity is maintained while a high income exempt from federal income tax is still obtained. Applicant further states that, absent unusual or extraordinary circumstances, the amortized cost method of valuation will be in the best interests of its shareholders and reflects the fair value of their securities. Applicant represents that it believes that the granting of the requested exemptions by the Commission is appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Applicant expressly consents that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising the Applicant's operations and delegating special responsibilities involving management to the Applicant's investment adviser, Applicant's board of trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees shall be the following:

(a) review by the board of trustees as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the Fund's $1.00 amortized cost price per share exceeds one-half of one percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated; by it.

(c) Where the board of trustees believes the extent of any deviation from the Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of the Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

(3) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above. The Applicant will also record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of meetings of the board of trustees. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments that the board of trustees determines present minimal credit risks, and that are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of trustees.

6. The Applicant will include as an attachment to each Form N–1Q it files, a statement indicating whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than October 15, 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/her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of 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 a matter of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-28540 Filed 9-27-82; 8:45 am]

BILLING CODE 8010-01-M

[1] Applicant states that to fulfill this condition, it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of trustees in the exercise of its discretion to be appropriate indicators of value which may include, among other things: (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] Should the disposition of a portfolio instrument result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant, in fulfilling this condition, will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonable practicable.

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 10/10-0180]

Alaska Business Investment Corp.; Application for a License to Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant

to Section 107.102 of the Regulations governing small business investment (13 C.F.R. Section 107.102 (1982)), under the name of Alaska Business Investment Corporation, 301 West Northern Lights Boulevard, Anchorage, Alaska 99510, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and stockholders of the Applicant are as follows:

Donald L. Mellish, 2200 Cliff Court, Anchorage, Alaska, Chairman of the Board of Directors and President

Michael O. Barry, 7611 Evander Drive, Anchorage, Alaska, Vice President-General Manager and Director

Robert P. Gray, Nettleton Drive, Anchorage, Alaska, Secretary and Director

Edward B. Rasmuson, 2101 Otter Street, Anchorage, Alaska, Director and Treasurer

Elmer E. Rasmuson, Box 600, Anchorage, Alaska, Director

The applicant, a Delaware corporation business, will begin operations with $500,000 paid-in capital and paid-in surplus derived from the sale of stock to the National Bank of Alaska.

The applicant will conduct its activities principally in the State of Alaska.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than fifteen (15) days from the date of publication of this Notice, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Anchorage, Alaska.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26647 Filed 9-27-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0391]

Cineffects Capital Corp.; Notice of License Surrender

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 C.F.R. 107.105 (1982)), Cineffects Capital Corporation, 115 West 45th Street, New York, New York 10036, incorporated under the laws of the State of New York, has surrendered its License No. 02/02-0391, issued by the SBA on June 11, 1980.

Cineffects Capital Corporation, has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of Cineffects Capital Corporation is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26644 Filed 9-27-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0387]

Finevalor Capital Corp.; Notice of License Surrender

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1982)), Finevalor Capital Corporation (FCC), 745 Fifth Avenue, New York, New York 10022, incorporated under the laws of the State of New York, has surrendered its License No. 02/02-0387, issued by the SBA on July 1, 1980.

FCC, has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of FCC is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26642 Filed 9-27-82; 8:45 am]

BILLING CODE 8025-01-M

Direct Business Loans; Interest Rates

The interest rate on section 7(a) Small Business Administration direct business loans (as amended by Pub. L. 97-35) and the SBA share of immediate participation loans is fourteen and one-half (14½) percent for the fiscal quarter beginning October 1, 1982.

On a quarterly basis, the Small Business Administration also publishes an interest rate called the optional "peg" rate (13 CFR 120.3(b)(2)(iii)). This rate is a weighted average cost of money to the government for maturities similar to the average SBA loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. For the October-December quarter of 1982, this rate will be thirteen and seven-eighths (13⅞) percent.

Dated: September 22, 1982.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 82-26641 Filed 9-27-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan #2064]

Louisiana; Declaration of Disaster Loan Area

Richland and the adjacent Parishes of Franklin and Madison in the State of Louisiana constitute a disaster area as a result of damage caused by heavy rains and flooding which occurred on September 11-12, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 22, 1982, and for economic injury until the close of business on June 22, 1983, at: Small Business Administration, Ford-Fish Building, 1661 Canal Street, 2nd Floor, New Orleans, Louisiana 70113, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	14⅞
Homeowners without credit available elsewhere	7⅞

	Percent
Businesses with credit available elsewhere	13½
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11½

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Public Law 96–302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: September 22, 1982.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 82–26640 Filed 9–27–82; 8:45 am]

BILLING CODE 8025–01–M

[License No. 01/02–0028]

Nationwide Funding Corp.; Notice of License Surrender

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1982)), Nationwide Funding Corporation (NFC), 306 Progress Street, P.O. Box 209, Manchester, Connecticut 06040, incorporated under the laws of the State of Connecticut, has surrendered its License No. 01/02–0028, issued by the SBA on June 6, 1961.

NFC, has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, an pursuant to the above-cited Regulation, the license of NFC is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82–26643 Filed 9–27–82; 8:45 am]

BILLING CODE 8025–01–M

[License No. 01/01–0011]

Schooner Capital Corp.; Notice of License Surrender

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1982)), Schooner Capital Corporation, 77 Franklin Street, Boston, Massachusetts 02110, incorporated under the laws of the State of Massachusetts, has surrendered its License No. 01/01–0011, issued by the SBA on June 24, 1968.

Schooner Capital Corporation has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of Schooner Capital Corporation is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82–26645 Filed 9–27–82; 8:45 am]

BILLING CODE 8025–01–M

[License No. 01/01–0302]

Transatlantic Capital Corp.; Notice of Filing of Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701 (1982)) for Transfer of Ownership and Control of Transatlantic Capital Corporation (Licensee), 24 Federal Street, Boston, Massachusetts 02111, a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*).

Pursuant to an August 1982 agreement between and among the Prince of Liechtenstein Foundation (Foundation), the Bank in Liechtenstein (The Bank), Instoria, Inc. (Instoria), and Providentia Ltd. (Providentia), Instoria and Providentia will each purchase a total of 7,500 shares of the Licensee's stock (50 percent or 15,000 shares) held by Foundation and the Bank.

Instoria and Providentia, Delaware Corporation, are investment companies which have their principal place of business at 20 Exchange Place, New York 1005.

Assuming consummation of the proposed transfer of ownership and control, the management and shareholders will be:

Percent of Ownership

Bayard Henry, 65 Goddard Avenue, Brookline, MA 02146, President & Director, None.

John O. Flender, 26 Arlington Street, Cambridge, MA 02140, Vice President, Treasurer, Asst. Clerk, & Director, None.

William D. Nichols, One Post Office Square, Boston, MA 02109, Clerk, None.

Hans-Adam Liechtenstein, Schloss Vaduz, FL–9490 Vaduz, Liechtenstein, Director, None.

James R. Dempsey, 4081 Ridgeview Circle, N. Arlington, VA 22207, Director, None.

Harvey J. Sarles, 25 Thomas Street, Barrington, R.I. 02860, Director, None.

Richard B. Bailey, 102 Commercial Street, Boston, MA 02109, Director, None.

Roger G. Kennedy, 208 N. Quaker Lane, Alexandria, VA 22304, Director, None.

Christian Norgren, Bank in Liechtenstein, FL–9490 Vaduz, Liechtenstein, Director, None.

The Prince of Liechtenstein Foundation, Schloss Vaduz, FL–9490 Vaduz, Liechtenstein, Stockholder, 50 percent.

Instoria, Inc., 20 Exchange Place, New York, NY 10005, Stockholder, 25 percent.

Providentia, Ltd., 20 Exchange Place, New York, NY 10005, Stockholder, 25 percent.

The Licensee will retain its corporate name and location.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owner and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed transfer of ownership and control to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82–26646 Filed 9–27–82; 8:45 am]

BILLING CODE 8025–01–M

SELECTIVE SERVICE SYSTEM

Senior Executive Service Performance Review Board; Appointment of Members

Announcement is made of the appointment of the following persons as members of the SES Performance Review Board for the Selective Service System: Raymond F. Wisniewski, Chairman, David A. Cox, and James D. Delk.

The announcement of October 31, 1980 (45 FR 72373) is canceled.

Dated: September 22, 1982.

Thomas K. Turnage,

Director.

[FR Doc. 82-26563 Filed 9-27-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Traffic Alert and Collision Avoidance System (TCAS) Symposium

The Department of Transportation hereby announces a Traffic Alert and Collision Avoidance System (TCAS) Symposium. This 2-day symposium will commence at 10:30 a.m. on October 12, 1982, in the Federal Aviation Administration auditorium, 800 Independence Avenue, SW., Washington, D.C.

The purpose of this meeting is to present recent results from the FAA engineering development and evaluation program and to discuss these results and program plans with symposium attendees. This information exchange is intended to support current activities to develop Minimum Operational Performance Standards for TCAS.

TCAS is intended to satisfy the operational need for an airborne separation assurance service and to ensure compatibility with all elements of the National Airspace System. Its operation does not depend upon the existence of external equipment other than Air Traffic Control Radar Beacon System (ATCRBS) transponders with altitude encoders or Mode S transponders with altitude encoders in other aircraft.

Although the meeting is open to the public (space permitting) a registration fee of $7.00 will be levied to cover handouts and refreshments for the 2-day symposium. A block of rooms has been reserved at the Holiday Inn, 550 C St., SW, for your convenience. The reservations must be made to the hotel directly on 202-479-4000 no later than October 1 on a first come first serve basis.

Further information concerning the symposium may be obtained from the Federal Aviation Administration, Program Engineering and Maintenance Service, TCAS Branch, ARD-240, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-9382.

Dated: September 24, 1982.

Joseph J. Fee,

Symposium Manager, ARD-240.

[FR Doc. 82-26703 Filed 9-27-82; 8:45 am]

BILLING CODE 4910-13-M

VETERANS ADMINISTRATION

Scientific Review and Evaluation Boards for Health Services Research and Development and Rehabilitation Research and Development; Charter Renewals

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that charters for the above named committees have been renewed by the Administrator of Veterans' Affairs for a two year period beginning September 7, 1982 through September 7, 1984.

Dated: September 20, 1982.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 82-26541 Filed 9-27-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 188
Tuesday, September 28, 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).

	Items
Federal Energy Regulatory Commission	1, 2
Federal Home Loan Bank Board	3
Federal Reserve System	4
Interstate Commerce Commission	5

1

September 22, 1982.

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: September 29, 1982, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—757th Meeting, September 29, 1982, Regular Meeting (10 a.m.)

CAP-1. Project No. 6283-000, G & B Water Users
CAP-2. Project No. 6287-000, Rainsong Company
CAP-3. Project No. 5676-003, Lawrence J. McMurtrey
CAP-4. Project No. 6251-000, A & J Construction, Inc.
CAP-5. Project No. 6293-000, Horseshoe Bar Associates, Inc.
CAP-6. Project No. 6295-000, Western Hydro Electric Company
CAP-7. Project No. 5956-000, Potter Instrument Company, Incorporated
CAP-8. Project Nos. 3024-002, 3024-003, 3029-002 and 3029-003, the City of Richmond, Virginia
CAP-9. Project No. 5906-001, North Canal Waterworks
CAP-10. Omitted
CAP-11. Project No. 4664-000, Long Lake Energy Corporation; Project No. 3625-000, Essex County Industrial Development Agency
CAP-12. Project No. 3494-000, Noah Corporation; Project No. 3666-000, Borough of Central City, Pa., Project No. 3961-000, Energenics Systems, Inc.; Project No. 4460-000, Tri-Cities of Arnold, Lower Burrell and New Kensington, Pa. and A. Richard Marcus and Associates; Project No. 4473-000, Town of Harrison, Pa., Project No. 4474-000, Borough of Cheswick, Pa. and Allegheny Valley North Council of Governments.
CAP-13. Project Nos. 2482-000 and 5276-000, Niagara Mohawk Power Corporation
CAP-14. Project No. 3175-000, Alaska Power Authority
CAP-15. Docket No. E-7704-000, the Electric and Water Plant Board of the City of Frankfort, *Kentucky* v. *Kentucky Utilities Company;* Docket No. E-7669-000, Public Service Company of Indiana; Docket No. E-7937-000, Indianapolis Power & Light Company; Docket No. E-8053-000, Kentucky Utilities Company; Docket No. E-8331-000, Kentucky Utilities Company
CAP-16. Docket No. ER82-15-002, Maine Yankee Atomic Power Company
CAP-17. Docket No. E-9563-002 and E-9563-003, U.S. Department of Energy, Bonneville Power Administration
CAP-18. Docket No. ER82-593-001, Pennsylvania Electric Company
CAP-19. Docket No. ER82-483-001, Middle South Service, Inc.
CAP-20. Docket No. ER82-707-000, Interstate Power Company
CAP-21. Docket Nos. ER82-702-000 and ER82-703-000, New England Power Company
CAP-22. Docket No. ER82-347-000, Wisconsin Electric Power Company
CAP-23. Docket Nos. EF79-4011-000 and EF82-4011-000, Southwestern Power Administration
CAP-24. Docket No. E-9565, *Town of Massena, New York* v. *Niagara Mohawk Power Corporation and the Power Authority of the State of New York*
CAP-25. Omitted
CAP-26. Docket No. ER82-410-000, New York State Electric & Gas Corporation
CAP-27. Docket No. ER81-651-000, Northern States Power Company (Minnesota)
CAP-28. Docket No. ER82-200-003, Maine Public Service Company
CAP-29. Docket Nos. ER82-294-000, ER82-295-000 and ER82-318-000, Philadelphia Electric Company
CAP-30. Docket Nos. ER76-532-002 and 003, Pacific Gas & Electric Company
CAP-31. Docket Nos. ER82-481-001 and 002, Arizona Public Service Company
CAP-32. Docket No. ER82-271-000, Pacific Gas & Electric Company
CAP-33. Docket No. ER82-128-000, Mississippi Power & Light Company

Consent Miscellaneous Agenda

CAM-1. Docket No. RM79-76-121 (Colorado-1 Addition), High-Cost Gas Produced From Tight Formations
CAM-2. Docket No. RM79-76-103 (New Mexico-9), High-Cost Gas Produced From Tight Formations
CAM-3. Docket No. RM79-76-080 (Texas-16), High-Cost Gas Produced From Tight Formations
CAM-4. Docket Nos. RA81-68-000 and RA81-73-000 (Consolidated), Kern Oil & Refining Co.
CAM-5. Docket No. RO81-2-000, Sunset Boulevard Car Wash; Docket No. RO81-3-000, Duane Weber d.b.a. Weber's Chevron Service; Docket No. RO81-4-000, Larry Septon d.b.a. Alameda Chevron; Docket No. RO81-6-000, Allen Person d.b.a. Tenth Street Chevron; Docket No. RO81-7-000, Ed Gularte Chevron; Docket No. RO81-9-000, Jim Lutz d.b.a. Petaluma Standard Service; Docket No. RO81-11-000, Benjamin Marshal d.b.a. Ben's Exxon Service; Docket No. RO81-12-000, Bill Wren d.b.a. Bill Wren's Shell; Docket No. RO81-13-000, Don Wallace d.b.a. Wallace Arco Service; Docket No. RO81-14-000, Shamuel Lazar d.b.a. Lazar Super Shell; Docket No. RO81-16-000, Ken Regalia d.b.a. Regalia's Chevron; Docket No. RO81-17-000, Joe Berube and Joe Berube Services; Docket No. RO81-19-000, Frank C. Terrasas d.b.a. Vale Vista Chevron; Docket No. RO81-21-000, Ray's Civic Center Mobil; Docket No. RO81-22-000, Charles Hageman d.b.a. Chuck's Auto Service; Docket No. RO81-23-000, Larry Septon d.b.a. Berryessa Chevron; Docket No. RO81-24-000, Walt Jost d.b.a. Walt's Shell Service; Docket No. RO81-25-000, Robert Walitsch d.b.a. Miraloma Shell; Docket No. RO81-26-000, Dhority's Union 76; Docket No. RO81-28-000, Steve Horner d.b.a. Steve Horner Chevron Service; Docket No. RO81-29-000, Ken Lord d.b.a. Ken's Chevron Service; Docket No. RO81-30-000, Bill Pendergast d.b.a. Bill Pendergast & Son Chevron; Docket No. RO81-31-000, Jack Jung d.b.a. Cutting Shell; Docket No. RO81-32-000, Steve Beagley and Grapevine Texaco; Docket No. RO81-33-000, Starr Fortune Harrington and Starr Union Service; Docket No. RO81-34-000, John Steckman d.b.a. McDowell Exxon; Docket No. RO81-35-000, Arthur Leite d.b.a. Art's Chevron Service; Docket No. RO81-38-000, Hal Abel d.b.a. Hal Abel Chevron; Docket No. RO81-39-000, John Delaveaga's Chevron; Docket No. RO81-40-000, A. J. Ataie d.b.a. Britton Chevron; Docket No. RO81-41-000, Don Pietsch d.b.a. Marina Chevron; Docket No. RO81-42-000, Ralph Mitchell and Ralph Mitchell's Hilltop Chevron
Docket No. RO81-46-000, Walter Macor d.b.a. Walt's Danville Chevron; Docket No. RO81-48-000, Joe Lastra d.b.a. Elwood Chevron Service; Docket No. RO81-49-000, Doug Myers d.b.a. Doug Myers Chevron Service; Docket No. RO81-50-000, Jens Agergaad d.b.a. Santa Maria Chevron; Docket No. RO81-52-000, Tom Van Diepen

d.b.a. Tom's Coffee Tree Chevron; Docket No. RO81–56–000, Albert Torretta d.b.a. Ye Old Pump House; Docket No. RO81–57–000, Bud Dietrich d.b.a. Bud Dietrich's Orinda Shell; Docket No. RO81–58–000, George Cravines d.b.a. Circle Service; Docket No. RO81–70–000, A. J. Ataie d.b.a. Sycamore Shell; Docket No. RO81–71–000, Bob Oyster d.b.a. Sharon Heights Shell; Docket No. RO82–1–000, Anthony N. Marrazzo d.b.a. Sherwood Garden Chevron; Docket No. RO82–2–000, Richard Atkinson/John Galbraith d.b.a. Alcatraz Mobil Service; Docket No. RO82–4–000, Ed Mantz d.b.a. A–1 Arco; Docket No. RO82–6–000, Gerald Bushman d.b.a. Gerald Bushman Chevron; Docket No. RO82–7–000, Harvey Miller d.b.a. Harv's Sacramento Car Wash; Docket No. RO82–8–000, Ben Sosbee d.b.a. Ben Sosbee's Chevron Service; Docket No. RO82–9–000, Bill Nelson d.b.a. Nelson's Service Center, Inc.; Docket No. RO82–10–000, Jim Daniels d.b.a. Jim's Texaco Service; Docket No. RO82–11–000, Howard De Rouen d.b.a. Howard De Rouen Shell; Docket No. RO82–12–000, Jerry Bullard d.b.a. Jerry Bullard Chevron; Docket No. RO82–13–000, Don Skilling d.b.a. Don Skilling Chevron Service; Docket No. RO82–14–000, Ed Forrester d.b.a. Ed's Exxon; Docket No. RO82–21–000, Herbert Bailey d.b.a. Aptos Shell; Docket No. RO82–22–000, Ken Betts d.b.a. Bubble Machine; Docket No. RO82–23–000, Bud Adams d.b.a. Bud Exxon Service; Docket No. RO82–24–000, C. J. King d.b.a. C. J. King Chevron; Docket No. RO82–25–000, Charles Salles d.b.a. Charlie's Exxon Service; Docket No. RO82–26–000, Roland K. Aronson d.b.a. Crossroad Texaco; Docket No. RO82–27–000, Demitrius Montalvano d.b.a. Dimitri's Arco; Docket No. RO82–29–000, John J. Hughes, Jr. d.b.a. Hughes Burlingame Shell; Docket No. RO82–30–000, Jerry Anderson d.b.a. Jerry's Shell Service; Docket No. RO82–31–000, Young Kim d.b.a. Kim's Mobil; Docket No. RO82–32–000, V. J. Haavisto d.b.a. Mowry Chevron Service; Docket No. RO82–33–000, Vic Sassikian and Pacifica Shell Service; Docket No. RO82–34–000, Paul Provost d.b.a. Paul Provost Chevron; Docket No. RO82–35–000, Bill Sandusky d.b.a. Sandusky's Service; Docket No. RO82–36–000, Bud Tuite d.b.a. Shelter Creek Chevron; Docket No. RO82–37–000, Charles Arivett d.b.a. Skycrest Shell; Docket No. RO82–38–000, Jim Campbell d.b.a. Suds Machine Chevron Car Wash; Docket No. RO82–39–000, Ed Neiman d.b.a. Union Park Service

CAM–6. Docket No. RO82–44–000, A–1 Exxon; Docket No. RO82–45–000, Concord Chevron Service; Docket No. RO82–46–000, C P Marketing; Docket No. RO82–47–000, East 14th Auto Clinic; Docket No. RO82–48–000, Ed's Auto Service; Docket No. RO82–49–000, Ken Bett's Montclair Chevron; Docket No. RO82–50–000, Ken Bett's Towing Service; Docket No. RO82–52–000, Pacific Manor Shell; Docket No. RO82–53–000, Pinole Valley Chevron; Docket No. RO82–54–000, Redhill Towing Service; Docket No. RO82–58–000, Kent Brooks Chevron; Docket No. RO82–59–000, Steve's Exxon; Docket No. RO82–61–000, Half Moon Bay Exxon; Docket No. RO82–62–000, Lombard Chevron Service; Docket No. RO82–63–000, Chip's Chevron Service; Docket No. RO82–64–000, Lee Kreger's Chevron.

Consent Gas Agenda

CAG–1. Docket No. TA82–2–18–002 (PGA82–2, TPR82–2, AP82–2 and TT82–2), Texas Gas Transmission Corporation;

CAG–2. Docket No. TA82–2–61–002 (PGA82–2 and IPR82–2), West Lake Arthur Corporation;

CAG–3. Docket Nos. RP82–125–001 and RP81–121–000, Tennessee Gas;

CAG–4. Docket No. RP82–117–001, Midwestern Gas Transmission Company;

CAG–5. Docket No. RP82–116–001, Southern Natural Gas Company;

CAG–6. Docket No. RP82–120–000, Columbia Gas Transmission Corporation; Docket No. RP82–119–000, Columbia Gulf Transmission Company

CAG–7. Docket No. TA82–2–29–001 (PGA82–2a), Transcontinental Gas Pipe Line Company

CAG–8. Docket No. TA83–1–7–000 (PGA83–1 and IPR83–1), Southern Natural Gas Company

CAG–9. Omitted

CAG–10. Docket No. TA83–1–25–000 (PGA83–1), Mississippi River Transmission Corporation

CAG–11. Docket No. TA83–1–31–000 (PGA83–1 and IPR83–1), Arkansas Louisiana Gas Company

CAG–12. Docket No. TA83–1–32–000 (PGA83–1 and IPR83–1), Colorado Interstate Gas Company

CAG–13. Docket No. TA83–1–33–000 (PGA83–1 and IPR83–1), El Paso Natural Gas Company

CAG–14. Docket No. TA83–1–34–000 (PGA83–1), Florida Gas Transmission Company

CAG–15. Docket No. TA83–1–36–000 (PGA83–1), Mountain Fuel Supply Company

CAG–16. Docket No. TA83–1–37–000 (PGA83–1, IPR83–1 and DCA83–1), Northwest Pipeline Corporation

CAG–17. Docket No. TA83–1–39–000 (PGA83–1 and IPR83–1), Pacific Interstate Transmission Company

CAG–18. Docket No. TA83–1–41–000 (PGA83–1 and IPR83–1), Southwest Gas Corporation

CAG–19. Docket No. TA83–1–42–000 (PGA83–1 and IPR83–1), Transwestern Pipeline Corporation

CAG–20. Docket No. TA82–2–11–000 (PGA82–2a), United Gas Pipe Line Company

CAG–21. Docket No. RP82–132–000 North Penn Gas Company

CAG–22. Docket No. RP82–131–000 Southwest Gas Corporation

CAG–23. Docket No. RP82–56–002 Northwest Pipeline Corporation

CAG–24. Omitted

CAG–25. Docket No. RP79–12–004 (Reserved Issue) and RP79–12–004 (Extension Issue), El Paso Natural Gas Company

CAG–26. Docket No. RP82–1–000 Michigan Wisconsin Pipe Line Company

CAG–27. Docket Nos. CP70–22–004, RP71–112–000, RP73–102–002

CAG–28. Docket No. SA82–22–000, Houston Pipe Line Company

CAG–29. Docket No. ST82–296–000, Shreveport Interstate Gas Transmission Company

CAG–30. Docket No. ST81–8–001, Consumers Power Company

CAG–31. Docket No. ST81–6–001, Cabot Corporation

CAG–32. Docket No. ST81–43–001, Rocky Mountain Natural Gas Company, Inc.

CAG–33. Docket No. ST80–133–001, Delhi Gas Pipeline Company

CAG–34. Docket No. RI77–26–001, J & J Enterprises, Inc., et al.

CAG–35. Docket No. RI82–2–000, Everett J. Carlson, et al.

CAG–36. Docket No. CI82–303–001, Aminoil USA, Inc.; Docket No. CI82–306–001, Sun Exploration and Production Company; Docket Nos. CI75–475–002 and CI77–411–003, Chevron U.S.A., Inc., et al.; Docket Nos. CI82–286–001 and G–5320–001, Getty Oil Company, et al.; Docket No. CI82–279–001, ARCO Oil & Gas Company, Division of Atlantic Richfield Company; Docket No. CI82–318–001, Amerada Hess Corporation; Docket No. CI82–319–001, Texoma Production Company; Docket No. CI82–327–001 and CI82–328–001, Pogo Producing Company; Docket No. G–14247–001, Sohio Petroleum Company; Docket No. CS71–988–006, Damson Oil Corporation, Damson Resources Corporation, A & E Pipeline Company and Damson Gas Processing Corp. (Damson Oil Corporation, Damson Resources Corporation and A & E Pipeline Company), et al.

CAG–37. Docket No. CP78–124–007, Northern Border Pipeline Company

CAG–38. Docket Nos. CP81–302–003 and CP81–303–006, Natural Gas Pipeline Company of America

CAG–39. Docket No. CP82–24–000, Texas Eastern Transmission Corporation

CAG–40. Docket No. CP81–535–002, Texas Eastern Transmission Corporation

CAG–41. Docket No. CP81–430–000, Kansas-Nebraska Natural Gas Company; Docket No. CP81–432–000, Northern Utilities, Inc.

CAG–42. Docket No. CP82–454–000, United Gas Pipe Line Company

CAG–43. Docket No. CP82–213–000, Panhandle Eastern Pipe Line Company

CAG–44. Docket No. CP82–410–000, Arkansas Louisiana Gas Company a Division of Arkla, Inc.

CAG–45. Docket No. CP82–334–000, Texas Gas Transmission Corporation

CAG–46. Docket No. CP82–455–000, United Gas Pipe Line Company

CAG–47. Docket No. CP82–329–000, Texas Eastern Transmission Corporation

CAG–48. Docket No. CP82–314–000, Alabama-Tennessee Natural Gas Company; Docket No. CP82–330–000, Texas Eastern Transmission Corporation

CAG–49. Docket No. CP82–452–000, Northwest Pipeline Corporation

CAG–50. Docket No. CP81–155–000, *City of Florence, Alabama*, Applicant v. *Tennessee Gas Pipeline Company*, a Division of Tenneco Inc., and *Alabama-Tennessee Natural Gas Company*, Respondents

I. Licensed Project Matters

p–1. Project Nos. 2849–001 and 3295–000, East Columbia Basin Irrigation District, Quincy-Columbia Basin Irrigation District and South Columbia Basin Irrigation District

II. Electric Rate Matters

ER–1. Docket No. QF82–179–000, Hetch Hetchy Water & Power Department
ER–2. Docket No. EF82–2011–000, Bonneville Power Administration
ER–3. Docket No. ER82–576–000, Energy Conversions of America, Inc.
ER–4. Docket Nos. ER80–71–001, 002 and 003, Central Illinois Public Service Company
ER–5. Docket Nos. ER76–828–002, 003, 004, and 005, Nantahala Power & Light Company; Docket Nos. ER78–18–002, 003, 004, and 005, *Town of Highlands, North Carolina, et al.* v. *Nantahala Power & Light Company*
ER–6. Docket Nos. ER79–126–001, ER79–126–002, ER79–126–003, and ER79–126–004, Arizona Public Service Company
ER–7. Docket Nos. ER78–379–000 and ER78–383–000, Indiana & Michigan Electric Company
ER–8. Docket No. ER77–277–002 (Phase II), Pennsylvania Power Company

Miscellaneous Agenda

M–1. Docket No. RM82–4–000, Revision of Monthly Report of Cost and Quality of Fuels for Electric Plants: Form No. 423
M–2. Docket No. RM82– , Compliance With ACRS Transition Provisions of the Economic Recovery Tax Act of 1981
M–3. Reserved
M–4. Reserved
M–5. Docket No. RM81–21–000, Recovery of Alaska Natural Gas Transportation System Charges
M–6. Docket No. GP81–11–000, Mobil Producing Texas & New Mexico, Inc.
M–7. Docket No. RA82–8–000, Little America Refining Company

Gas Agenda

I. Pipeline Rate Matters

RP–1. Omitted
RP–2. Docket Nos. TA82–2–9–002, 003, 004 and 005 (PGA82–2, IPR82–2, DCA82–2 and R&D82–2) Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Docket Nos. RP81–54–000, RP82–12–000 and RP82–1–9–001, Tennessee Gas Pipe Line Company
RP–3. Docket No. RP82–67–000, Natural Gas Pipeline Company of America
RP–4. Docket No. RP82–102–000, Gas Research Institute
RP–5. Docket No. RP78–78–001 (Abandoned Projects), Natural Gas Pipeline Company of America
RP–6. Docket Nos. TA82–2–33–000, 001, 002, 003, 004, 005, 007, 008 and 009 (PGA82–2, IPR82–2, AP82–2 and TT82–2), El Paso Natural Gas Company
RP–7. Docket No. TA82–2–33–000 (PGA82–2c), El Paso Natural Gas Company

II. Producer Matters

CI–1. Docket No. CI75–45, Tenneco Oil Company; Docket No. CI75–59, Placid Oil Company; Docket No. CI75–66, Hunt Petroleum Corporation; Docket No. CI75–67, Hunt Industries; Docket No. CI75–68, Hunt Oil Company; Docket No. CI75–69, Kewanee Oil Company; Docket No. CI75–105, Tenneco Oil Company; Docket Nos. CI75–684 and CI75–107, Shell Oil Company; Docket No. CI75–122, Ashland Oil, Inc., Docket No. CI75–138, Transocean Oil, Inc., Docket No. CP73–339, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Docket Nos. CP75–330 and CP75–19, Trunkline Gas Company; Docket Nos. CP75–23, CP75–119, CP75–120, CP78–121, CP78–229, and CP77–559, Tennessee Gas Pipeline Company, Docket No. CP75–149, Trunkline Gas Company; Docket Nos. CP75–316 and CP75–151, Southern Natural Gas Company; Docket No. CP78–135, Texas Eastern Transmission Corporation; Docket Nos. CP75–153, Southern Natural Gas Company, United Gas Pipe Line Company and Florida Gas Transmission Company; Docket No. CP78–149, United Gas Pipeline Company; Docket No. CP75–163, Southern Natural Gas Company; Docket No. CP75–258, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. and Tenneco Chemicals, Inc.; Docket No. CP75–268, Ammonia Enterprises Pipeline, Inc.; Docket No. CP75–733, Highland Resources; Docket No. CP78–164, Natural Gas Pipeline Company of America and Trunkline Gas Company; Docket No. CP79–387, First Mississippi Corporation
CI–2. Docket No. G–3636–003, Allied Chemical Corporation

III. Pipeline Certificate Matters

CP–1. Docket No. CP81–433–001, Columbia Gas Transmission Corporation
CP–2. (A) Docket No. CP79–80–008, Trailblazer Pipeline Company, Overthrust Pipeline Company and Colorado Interstate Gas Company; (b) Docket No. CP82–450–000, Colorado Interstate Gas Company; (C) Omitted
CP–3. Docket Nos. RP71–29, et al. (Phase I and II) and SA80–4, United Gas Pipe Line Company
CP–4. Docket Nos. CP74–138 and CP74–139, Trunkline LNG Company; Docket No. CP74–140, Trunkline Gas Company; Docket No. CP82–519–000, State of Michigan and Michigan Public Service Commission. Docket No. CP82–517–000, *Association of Businesses Advocating Tariff Equity* v. *Trunkline LNG Company and Trunkline Gas Company*

Kenneth F. Plumb,

Secretary.

[S–1381–82 Filed 9–29–82; 12:05 am]

BILLING CODE 6717–01–M

2

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: 10:00 a.m., September 30, 1982.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) Docket Nos. IN78–1 and IN79–3, Tenneco, Inc., *et al.*

(2) Docket No. IN80–8, Caddo Pine Island Corporation

(3) Docket No. CI75–201–002, Atlantic Richfield, *et al.*

(4) Civil action or private investigation of producer-owned natural gas processing plants

(5) Docket No. IN80–12, Gas Producing Enterprises, Inc.

(6) Docket No. GP81–33–000, Paul E. Cameron, Jr., Inc.

(7) Docket No. CP75–93 (Remand), Black Marlin Pipeline Cmpany

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

Kenneth F. Plumb,

Secretary.

[S–1379–82 Filed 9–28–82; 12:02 pm]

BILLING CODE 6717–01–M

3

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, September 30, 1982.

PLACE: Board Room, 6th Floor, 1700 G St., N.W., Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

MATTERS TO BE CONSIDERED: Request for Waiver Under Section 407(p)(2) of the National Housing Act.

No. 63, September 24, 1982.

[S–1383–82 Filed 9–24–82; 3:18 pm]

BILLING CODE 6720–01–M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Monday, October 4, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: September 24, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1382–82 Filed 9–24–82; 2:52 pm]

BILLING CODE 6210–01–M

5

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10 a.m., Tuesday, October 5, 1982.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th Street & Constitution Avenue, N.W., Washington, D.C. 20423.

STATUS: Open Regular Conference.

MATTER TO BE CONSIDERED: Ex Parte No. MC–166—Pricing Practices By Motor Common Carriers of Property Since the Motor Carrier Act of 1980.

CONTACT PERSON FOR MORE INFORMATION: Robert R. Dahlgren, Director, Office of Communications, Telephone: (202) 275–7252.

[S–1380–82 Filed 9–24–82; 12:03 pm]

BILLING CODE 7035–01–M

federal register

Tuesday
September 28, 1982

Part II

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Elimination of Medicare Indirect Subsidy for Private Rooms

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Elimination of Medicare Indirect Subsidy for Private Rooms

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

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule changes the way Medicare determines the costs of inpatient routine services (bed and board), including costs of private rooms, furnished in hospitals and skilled nursing facilities (SNFs). This change is needed to prevent Medicare from sharing in the added costs of private rooms unless those rooms are used by Medicare beneficiaries and are medically necessary. This regulation implements section 111 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248).

DATES:

Effective date: October 1, 1982. Although this regulation is final, comments may be submitted as described below.

Comment Date: To assure consideration, comments must be mailed by October 28, 1982.

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

In commenting, please refer to file code BPP–216–FC.

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

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

FOR FURTHER INFORMATION CONTACT: William Goeller, (301) 597–1802.

SUPPLEMENTARY INFORMATION:

I. General Background

A. Current Problem

The Medicare program recognizes the reasonable costs of general inpatient routine services furnished by hospitals and skilled nursing facilities (SNFs) as allowable costs. Under the Medicare provider reimbursement regulations at 42 CFR 405.452(d)(7), these costs are reimbursed on an overall average cost per diem basis. That is, the total allowable cost of inpatient general routine services (excluding intensive care type units) is divided by the total number of patient days, including private room patient days, to arrive at an overall average cost per diem applicable to each day of care furnished to Medicare and non-Medicare patients.

Because of the current methodology for determining general inpatient routine service costs includes the higher cost of private rooms, this methodology does not fully implement the provisions of the Medicare law that deal with payment for private rooms furnished to Medicare beneficiaries. These provisions state that Medicare reimbursement for bed and board may not exceed the reasonable cost of semi-private accommodations unless more expensive accommodations are medically necesary.

(Section 1861(v)(2)(A) of the Act (42 U.S.C. 1395x(v)(2)(A))). (Section 111 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), as described in item B below, directs the Secretary to issue regulations enforcing the requirements of section 1861(v)(2)(A) of the Act). Medicare regulations at 42 CFR 405.116(b) specify that a private room is ordinarily medically necessary only when a patient's condition requires him to be isolated or when an individual (in need of immediate inpatient hospital care but not requiring isolation) is admitted to a hospital which has no semiprivate or ward accommodations, or at a time when such accommodations are occupied.

Also, the statute allows a provider to charge a beneficiary for items and services that are more expensive than those covered by the program when they have been furnished at the beneficiary's request. (Section 1866(a)(2)(B)(i) of the Act (42 U.S.C. 1395cc(a)(2)(B)(i))). Thus, if a Medicare beneficiary requests private room accommodations that are not medically necessary, the provider may bill the beneficiary for the difference between the private room and semi-private room charges.

Since Medicare has included the higher costs of private rooms in determining provider's inpatient per diem routine service cost, the provider who bills the beneficiary the difference in charges between the private and semi-private room accommodations would to some extent receive duplicate payment for the accommodations. This situation results in an unintended subsidy to providers for private room costs.

B. 1982 Legislation

On September 3, 1982, Congress enacted the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248). Section 111 of this Act requires the Secretary to issue regulations limiting Medicare routine cost reimbursement for private rooms that are not medically necessary to the reasonable cost of semi-private accommodations, as determined under section 1861(v)(2) of the Act. The legislation specifies that the Secretary shall not allow as a reasonable cost the estimated amount by which costs for nonmedically necessary private room accommodations used by Medicare beneficiaries exceeds the costs which would have been incurred for semi-private accommodations. The Conference Committee Report on Pub. L. 97–248, does not precisely specify how an estimate of the additional cost of nonmedically necessary private rooms is to be developed (H.R. Rep. No. 97–760, 97th Cong., 2nd Sess. 422f (1982). However, the Senate Finance Committee Report on H.R. 4961, which was considered by the Conference Committee in recommending enactment of Pub. L. 97–248, suggests that this be accomplished by subtracting from a provider's allowable cost the estimated differential cost based on the differential charges for private rooms over semi-private rooms (S. Rep. No. 97–494, vol. 1, 97th Cong., 2nd Sess. 27 (1982). Medicare will continue to pay the private room cost differential for medically necessary private rooms used by program beneficiaries.

Section 111(b) specifies that these final regulations, (whether interim or other basis) must be issued by October 1, 1982. The law further specifies that if the regulations are issued as on interim final basis, the final rule must be published by January 31, 1983.

II. Revision to Regulations

A. General Approach

We are amending the Medicare regulations on cost apportionment (42 CFR 405.452) to revise the methodology for computing reimbursement for inpatient general routine service costs. Under this rule, Medicare's methodology for computing reimbursement for inpatient routine services will specifically provide for including the difference in cost between semi-private and private accommodation in Medicare reimbursement only when private rooms

are furnished to Medicare beneficiaries for medically necessary reasons. In this manner, reimbursement for medically unnecessary private room days used by Medicare beneficiaries will not exceed the reasonable cost of services furnished in semi-private rooms, while the higher cost of medically necessary private rooms actually used by Medicare beneficiaries will be specifically recognized. (Providers are still permitted to collect the private room charge differential from Medicare beneficiaries when private rooms are requested and are not medically necessary.) In addition, under this methodology, Medicare will no longer share in the cost of private rooms used by non-Medicare patients.

In general, this rule requires each provider to determine its total cost of private rooms over semi-private room accommodations furnished to all patients, and to exclude this amount from its total inpatient general routine service costs, as suggested by the Senate Finance Committee report. The provider also is required to calculate its per diem inpatient general routine service cost, and the per diem amount of the private room cost differential.

To determine its allowable cost of inpatient general routine services furnished to Medicare patients, the provider multiplies its per diem inpatient general routine service cost, excluding the private room cost differential, by the number of days of care it furnished Medicare beneficiaries and adds to this the product of its per diem private room cost differential times the number of days of care it furnished Medicare beneficiaries in medically necessary private rooms. For purposes of this calculation, "private rooms" and "semi-private rooms" would include rooms in sub-intensive or intermediate care units that do not qualify for separate reimbursement as intensive care type units under 42 CFR 405.452(d)(10).

The specific methodology for implementing this legislation is described in detail in section II. B. of this preamble. We believe that application of this methodology will implement most effectively the requirements of the Medicare law regarding payment for inpatient general routine services in private rooms furnished by hospitals and SNFs.

B. Methodology for Determining Reimbursement for Inpatient General Routine Service Costs.

We are requiring that hospital and SNF reimbursement for inpatient general routine service costs be determined by applying the methodology that is outlined in the following chart, and is explained in detail in steps 1–3 below.

BILLING CODE 4120-03-M

1. Average per diem private room cost differential.

a. Average Per Diem Private Room Charge Differential = Average Per Diem Private Room Charge minus Average Per Diem Semi-Private Room Charge

b. Inpatient General Cost/Charge Ratio = Total Inpatient General Routine Costs / Total Inpatient General Routine Charges

c. Average Per Diem Private Room Cost Differential = Average Per Diem Private Room Charge Differential X Inpatient General Routine Cost/Charge Ratio

2. Average cost per diem for inpatient general routine services

a. Total Private Room Cost Differential = Average Per Diem Private Room Cost Differential X Total Private Room Patient Days

b. Total Inpatient General Routine Service Costs Net of the Private Room Cost Differential = Total Inpatient General Routine Service Costs minus Total Private Room Cost Differential

c. Average Cost Per Diem for Inpatient General Routine Services =

Inpatient General Routine Service Costs Net of Total Private Room Cost Differential / Total Patient Days for All Inpatient General Routine Accommodations

3. Medicare inpatient general routine service costs.

(Average Cost Per Diem for Inpatient General Routine Services X All Medicare Inpatient General Routine Days Including Medicare Private Room Days.

+

(Average Per Diem Private Room Cost Differential X Medicare Medically Necessary Private Room Days)

BILLING CODE 4120-03-C

To apply the formulas described in this chart, hospitals and SNFs participating in Medicare will be required to take the following steps:

Step 1a

Determine the average per diem private room charge differential between a private room patient day and semi-private room patient day, by subtracting the average per diem charge for all semi-private room accommodations from the average per diem charge for all private room accommodations. The average per diem charge for private room accommodations would be determined by dividing the total charges for private room accommodations by the total number of days of care furnished in private room accommodations. The average per diem charge for semi-private accommodations would be determined by dividing the total charges for semi-private room accommodations by the total number of days of care furnished in semi-private accommodations.

Step 1b

Determine the inpatient general routine cost/charge ratio by dividing the total inpatient general routine service costs by the total inpatient general routine service charges.

Step 1c

Determine the average per diem private room cost differential by multiplying the average per diem private room charge differential determined in Step 1a by the inpatient general routine cost/charge ratio determined in Step 1b.

Step 2a

Determine the total private room cost differential by multiplying the average per diem private room cost differential determined in Step 1c by the total number of private room patient days.

Step 2b

Determine the total inpatient general routine service costs net of the total private room cost differential by subtracting the total private room cost differential determined in Step 2a from total inpatient general routine service costs.

Step 2c

Determine the average cost per diem for inpatient general routine services by dividing the total inpatient routine service cost, net of the total private room cost differential determined in Step 2b by all inpatient general routine days for all accommodations.

Step 3

Determine the total inpatient general routine service cost applicable to Medicare including the cost of medically necessary private rooms used by Medicare patients. First, the provider multiplies the average cost per diem for inpatient general routine services determined in Step 2c by all Medicare inpatient general routine days, including Medicare private room days regardless of whether or not they were medically necessary. The provider then adds to this amount the private room cost differential applicable to Medicare inpatient general routine days. This is determined by multiplying the average per diem private room cost differential determined in Step 1c by the number of medically necessary private room days of care furnished to Medicare patients.

An example of the calculation of Medicare reimbursement for inpatient general routine service costs using this proposed methodology is presented in section 405.452(e)(2)(iii) of the revised regulations.

This methodology does not distinguish between ward and semi-private accommodations. We believe that it is not necessary to specifically identify the difference in cost between semi-private and ward accommodations because the provider may not collect separate charges from beneficiaries for ward accommodations. (Providers generally do collect separate charges for private rooms.) Furthermore, in light of the small proportion of ward days compared to semi-private and private days, we believe the aggregation of ward days and cost with days and cost of semi-private rooms will have very little effect on overall Medicare reimbursement.

Section 1861(v)(3) of the Social Security Act (42 U.S.C. 1395x(v)(3)) requires that Medicare payments to a provider be reduced if a beneficiary is put in ward accommodations he/she has not requested, if the use of these accommodations is not consistent with the purposes of the Medicare law. This reduction will continue to be made in the same manner under this revised regulation.

Section 103 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248) eliminated use of the inpatient routine nursing salary cost differential in determining Medicare reimbursement for routine service costs. This amendment is effective with respect to cost reporting periods ending after September 30, 1982, but in the case of any cost reporting period beginning before October 1, 1982, any resulting reduction in Medicare payment will be imposed only in proportion to the part of the period which occurs after September 30, 1982. Final regulations implementing this change in the statute will be issued at approximately the same time as this rule. Although these interim final regulations still reference the nursing salary differential, the differential will only be effective as discussed above. (See **Federal Register** publication entitled Elimination of Inpatient Routine Nursing Salary cost differential for more details.)

III. Swing Beds

Section 904 of the Omnibus Reconciliation Act of 1980 added section 1883 to the Social Security Act (42 U.S.C. 1395tt). Under this section (the swing bed provision), certain rural hospitals with fewer than 50 beds may use their inpatient beds to furnish SNF services to Medicare and Medicaid beneficiaries, and intermediate care facility (ICF) services to Medicaid beneficiaries. On July 20, 1982, we published in the **Federal Register** interim final regulations implementing this provision of the law (47 FR 31518). Payment for SNF and ICF services in a swing-bed hospital is made at the average rate per patient day paid for SNF and ICF routine services respectively, during the previous calendar year under the State's Medicaid plan.

Medicare reimbursement for routine hospital services is determined after the amounts attributable to the routine SNF and ICF services provided under the swing-bed approval are subtracted from total general routine service costs. Likewise, in determining the average general routine cost per diem, only those days of hospital patient care (net of SNF and ICF days) are used. Once the costs and days of care for SNF and ICF services are removed, the apportionment methodology for calculating the hospital level average cost per diem described in section II.B. of this preamble applies. The methodology for eliminating noncovered private room costs does not apply to the computation of routine costs applicable to SNF and ICF days of care. That is, private room days used by SNF and ICF patients in a swing-bed setting would not affect reimbursement for these days because the statute specifically provides for the rate of payment for these days.

Certain small rural institutions that maintain distinct-part SNFs and that do not exceed the maximum number of beds could, without obtaining swing-bed approval, opt to compute reimbursement using the swing-bed methodology. That is, the institution would continue to furnish only hospital services in hospital beds and only SNF services in the

distinct-part SNF beds. However, in computing Medicare reimbursement, the hospital would be permitted to combine the costs of the hospital and SNF components and to use the swing-bed reimbursement methodology for payment as if the two components were combined and had a swing-bed approval. In these cases, the hospital is required to use the same methodology for eliminating the private room subsidy as those hospitals that actually have a swing-bed approval.

IV. Impact Analysis

A. Executive Order 12291

The Secretary has determined that these regulations do not meet the criteria for a major rule that are set forth in section 1(b) of Executive Order 12291. That is, the regulations will not have an annual effect on the economy of $100 million or otherwise meet the threshold criteria of the Executive Order.

We do not have an accurate estimate of the Medicare program savings associated with this rule. Actual savings will vary with the difference between provider's charges for semi-private and private rooms and the proportion of non-medically necessary private rooms used by Medicare beneficiaries. Since it is possible that this rule may influence the decisions of providers in determining charges for semi-private and private rooms, we are not able to project definitive program savings, particularly long-term savings. In any event, the amount of savings will not reach the target threshold to be considered a major rule.

However, even if we were to determine that there was an impact of $100 million or more, we would not classify it as a major rule for purposes of the Executive Order. This is because we have determined that Section 111 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) has occasioned this impact, and not these regulations which merely implement the statutory provision. Therefore, a regulatory impact analysis is not required.

B. Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b) enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these regulations will not have a significant economic impact on a substantial number of small entities.

The reason for the Secretary's certification is that, as explained in the impact analysis under the Executive Order section, these rules will not have a major dollar impact. Although we do not know exact program savings associated with this revision, we are certain it is less than $100 million. Since the Medicare program will spend approximately $37.5 billion for inpatient services in FY 1983, this reduction will amount to less than .4 percent reduction in Medicare payments nationally. For purposes of the Regulatory Flexibility Act, we have generally considered significant economic impact to be a change which would result in a reduction of 5 percent of a facility's total revenue.

The actual impact of this rule on an individual provider will vary with the proportion of private rooms used by Medicare beneficiaries compared to semi-private rooms used, and with the providers charge differential between private and semi-private rooms. Therefore, we are not able to predict precisely the impact on any individual entity as it is dependent on behavior patterns of providers and beneficiaries. However, nearly all providers will be affected by this proposed rule since the private room cost differential applicable to all patients will be removed from total general routine service costs before the general routine service costs are apportioned to Medicare. Since the less than .4 percent reduction in Medicare payments would be spread among the thousands of providers affected, the impact will not be significant.

However, even if there were a significant effect on a substantial number of small entities, we have determined that this effect is the result of the statutory provision, and not these regulations which merely implement these provisions. Therefore, a regulatory flexibility analysis is not required.

C. Discussion

Although this revision decreases providers' revenue, providers would still be paid their reasonable costs for services. Medicare will continue to pay providers their full reasonable costs of medically necessary private rooms furnished to Medicare patients. Additionally, providers can bill beneficiaries for the incremental charges for private rooms that are not medically necessary but have been furnished at the beneficiary's request.

V. Waiver of Proposed Rulemaking

Section 111(b) of Pub. L. 97–248 specifies that "final regulations (whether on an interim or other basis)" implementing the elimination of private room subsidy shall be issued by October 1, 1982. This provision contemplates that this statutory provision can only be properly implemented by regulations which are issued immediately. Therefore, in our view, publishing a notice of proposed rulemaking would be impractical, unnecessary, and contrary to public interest. We believe that delaying implementation of the statute by the amount of time required for proposed rulemaking would be impractical and contrary to the public interest because the statute does not allow the Secretary the discretion to continue payment for the added costs of private rooms for cost reporting periods beginning on or after October 1, 1982. Moreover, we expect that implementation of the statute will result in budget savings. Any delay in implementation would reduce these savings, and this would be contrary to the public interest of reducing deficit spending. In view of these considerations, we find good cause to waive proposed rulemaking procedures and the usual 30-day delay in effective date.

We will, however, consider any comments on this rule that are mailed by the date specified in the "DATES" section and make any further changes that may be necessary.

VI. Miscellaneous

A. Clearance of Reporting Requirements

This final rule contains information collection requirements that are subject to Office of Management and Budget (OMB) review. As required by section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), we have submitted a copy of this rule to OMB for review of these information collection requirements.

These requirements are specified at § 405.452(d)(7) and (d)(11) of these regulations. The methodology for eliminating the private room cost differential requires the use of data that are not currently collected by the Medicare cost report (Form HCFA–2552). We assume that hospitals and SNFs presently maintain records on charges for private and semi-private rooms as well as their use by Medicare beneficiaries as part of their private business and accounting practices. Therefore, we do not anticipate that requiring this additional reporting will present a significant burden on providers. We are revising the Medicare cost report to provide for the collection of this additional data.

B. Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, we will consider any comments on this rule that are received by the date specified in the

"DATES" section. If as a result of public comments we conclude that changes in these interim final regulations are needed, we will include these changes in the final regulations described in item B below.

C. Publication of revised final regulations.

Section 111(b) of Pub. L. 97–248 specifically requires the Secretary of HHS to first issue such final regulations (whether on an interim or other basis) before October 1, 1982, as may be needed to eliminate the indirect subsidy of private rooms on a timely basis.

This legislation further requires that if these regulations are promulgated on an interim final basis, the Secretary shall provide an opportunity for public comment and appropriate revision to these regulations, so that they are not on an interim basis later than January 31, 1983.

To comply with these requirements, we are publishing this rule on an interim final basis. As required by the law we will consider all public comments we receive on the rule, determine whether changes in these interim regulations are needed, and publish final regulations implementing section 111 by January 31, 1983.

List of Subjects in 42 CFR Part 405

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

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

42 CFR Part 405, Subpart D is amended as set forth below:

1. The authority citation for 42 CFR Part 405, Subpart D, is amended to read as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1861(v), 1871, and 1883, 49 Stat. 647, as amended, 79 Stat. 296, 79 Stat. 302, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395f(b), 1395l (a), 1395x(v), 1395hh, and 1395tt, unless otherwise noted.

2. 42 CFR 405.452 is amended by reprinting the introductory material of paragraph (b), by revising paragraph (b)(1)(i), by revising the heading of (b)(1)(ii), and by adding a new paragraph (b)(1)(iii) to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

* * * * *

(b) *Principle for cost reporting periods starting after December 31, 1971.* Total allowable costs of a provider shall be apportioned between program beneficiaries and other patients so that the share borne by the program is based upon actual services received by program beneficiaries. For cost reporting periods starting after December 31, 1971, the methods of apportionment are defined as follows:

(1) *Departmental Method*—(i) *Methodology.* Except as provided in paragraph (b)(1)(ii) of this section with respect to the direct apportionment of malpractice costs, and in paragraph (b)(1)(iii) of this section with respect to the treatment of the private room cost differential for cost reporting periods starting on or after October 1, 1982, the ratio of beneficiary charges to total patient charges for the services of each ancillary department is applied to the cost of the department; to this is added the cost of routine services for program beneficiaries, determined on the basis of a separate average cost per diem for general routine patient care areas as defined in paragraph (d)(7) of this section, taking into account, to the extent pertinent, an inpatient routine nursing salary cost differential (see § 405.430 for definition and application of this differential), and in hospitals, a separate average cost per diem for each intensive care unit, coronary care unit, and other intensive care type inpatient hospital units.

(ii) *Exception: Malpractice insurance.* For cost reporting periods beginning on or after July 1, 1979, costs of malpractice insurance premiums and self-insurance fund contributions must be separately accumulated and directly apportioned to Medicare. The apportionment must be based on the dollar ratio of the provider's Medicare paid malpractice losses to its total paid malpractice losses for the current cost reporting period and the preceding 4-year period. If a provider has no malpractice loss experience for the 5-year period, the costs of malpractice insurance premiums of self-insurance fund contributions must be apportioned to Medicare based on the national ratio of malpractice awards paid to Medicare beneficiaries to malpractice awards paid to all patients. The Health Care Financing Administration will calculate this ratio periodically based on the most recent departmental closed claim study. If a provider pays allowable uninsured malpractice losses incurred by Medicare beneficiaries, either through allowable deductible or coinsurance provisions, or as a result of an award in excess of reasonable coverage limits, or as a governmental provider, such losses and related direct costs must be directly assigned to Medicare for reimbursement.

(iii) *Exception: Indirect cost of private rooms.* For cost reporting periods starting on or after October 1, 1982, the additional cost of furnishing services in private room accommodations is apportioned to Medicare only when these accommodations are furnished to program beneficiaries, and are medically necessary. To determine routine service cost applicable to beneficiaries,

(A) Multiply the average cost per diem (as defined in paragraph (d)(7)(ii) of this section) by the total number of Medicare patient days (including private room days whether or not medically necessary).

(B) Add the product of the average per diem private room cost differential (as defined in paragraph (d)(11) of this section) and the number of medically necessary private room days used by beneficiaries.

(C) The days in paragraphs (b)(iii) (A) and (B) of this section do not include private rooms furnished for SNF type and ICF services under the swing bed provision.

3. 42 CFR 405.452(d) is amended by revising paragraph (7) and adding a new paragraph (11) to read as follows:

* * * * *

(d) *Definitions.* * * *

(7) *Average cost per diem for general routine services*—(i) *Average cost per diem for routine services: for cost reporting periods beginning before October 1, 1982.* The average cost per diem for general routine services for cost reporting periods beginning before October 1, 1982, means the amount computed by dividing the total allowable inpatient cost for routine services (excluding the cost of services provided in intensive care units, coronary care units, and other intensive care type inpatient hospital units as well as nursery costs) by the total number of inpatient days of care (excluding days of care in intensive care units, coronary care units, and other intensive care type inpatient hospital units and newborn days) rendered by the provider in the accounting period.

(ii) *Average cost per diem for general routine services: for cost reporting periods beginning on or after October 1, 1982.* The average cost per diem for

general routine services for cost reporting periods beginning on or after October 1, 1982, subject to the provisions on swing bed hospitals, means the average cost of general routine services net of the private room cost differential. The average cost per diem is computed by the following methodology:

(A) Determine the total private room cost differential by multiplying the average per diem cost differential determined in paragraph (d)(11) of this section by the total number of private room patient days.

(B) Determine the total inpatient general routine service costs net of the total private room cost differential by subtracting the total private room cost differential determined in paragraph (d)(7)(ii)(A) from total inpatient general routine service costs.

(C) Determine the average cost per diem by dividing the total inpatient general routine service cost net of private room cost differential determined in paragraph (d)(7)(ii)(B) by all inpatient general routine days, including total private room days. * * *

(11) *Average per diem private room cost differential.* (i) Average per diem private room cost differential means the difference in the average per diem cost of furnishing routine services in a private room and in a semi-private room. (This differential is not applicable to hospital intensive care type units.)

(ii) To compute the average per diem private room cost differential:

(A) Determine the average per diem private room charge differential by subtracting the average per diem charge for all semi-private room accommodations from the average per diem charge for all private room accommodations. The average per diem charge for private room accommodations is determined by dividing the total charges for private room accommodations by the total number of days of care furnished in private room accommodations. The average per diem charge for semi-private accommodations is determined by dividing the total charges for semi-private room accommodations by the total number of days of care furnished in semi-private accommodations.

(B) Determine the inpatient general routine cost/charge ratio by dividing total inpatient general routine service cost by the total inpatient general routine service charges.

(C) Determine the average per diem private room cost differential by multiplying the average per diem private room charge differential determined in paragraph (d)(11)(ii)(A) by the ratio determined in paragraph (d)(11)(ii)(B).

3. 42 CFR 405.452(e)(2) is amended by adding new paragraph (iii), to read as follows:

* * * * *

(e) *Application.* * * *

(2) *Departmental method.* * * *

(iii) *For cost reporting periods beginning on or after October 1, 1982.* The following illustrates how apportionment based on an average cost per diem for general routine services is determined.

HOSPITAL E

Facts	Private accommodations	Semi-private accommodations	Total
Total charges	$20,000	$175,000	$195,000
Total days	100	1,000	1,100
Programs days	70	400	470
Medically necessary for program beneficiaries	20		20
Total general routine service costs			165,000
Average private room per diem charge ($20,000 private room charges ÷ 100 days			[1]200
Average semi-private room per diem charge ($175,000 semiprivate charge ÷ 1,000 days			[1]175

[1] Per diem.

Average per diem private room cost differential

1. Average per diem private room charge differential ($200 private room per diem—$175, semi-private room per diem), $25.

2. Inpatient general routine cost/charge ratio ($165,000 total costs ÷ $195,000 total charges), 0.8461538.

3. Average per diem private room cost differential ($25 charge differential X .8461538 cost/charge ratio), $21.15.

Average cost per diem for inpatient general routine services

4. Total private room cost differential ($21.15 average per diem cost differential X 100 private room days), $2,115.

5. Total inpatient general routine service costs net of private room cost differential ($165,000 total routine cost—$2,115 private room cost differential), $162,885.

6. Average cost per diem for inpatient general routine services ($162,885 routine cost net of private room cost differential ÷ 1,100 patient days), $148.08.

Medicare general routine service cost.

7. Total routine per diem cost applicable to Medicare ($148.08 average cost per diem X 470 Medicare private and semi-private patient days), $69,598.

8. Total private room cost differential applicable to Medicare ($21.15 average per diem private room cost differential X 20 medically necessary private room days), $423.

9. Medicare inpatient general routine service cost ($423 Medicare private room cost differential + $69,598 Medicare cost of general routine inpatient services), $70,021.

(Catalog of Domestic Assistance Program No. 13.773 Medicare—Hospital Insurance)

Dated: September 13, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 17, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-26342 Filed 9-27-82; 8:45 am]

BILLING CODE 4120-03-M

federal register

Tuesday
September 28, 1982

Part III

Department of the Interior

Bureau of Land Management

Recreation and Public Purposes Act Conveyances

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2740 and 2910

Recreation and Public Purposes Act Conveyances; Amendments to the Recreation and Public Purposes Act Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Recreation and Public Purposes Act, as amended, provides the major avenue through which public land are transferred, by conveyance or lease, to the States or their political subdivisions and to nonprofit corporations and associations. The Act provides procedures for lands transfer for recreational and public purpose uses. This proposed rulemaking would make a number of amendments in the existing regulations to facilitate acquisition of public lands by States, State instrumentalities and subdivisions, including counties and municipalities, for recreational or public purposes. This proposed rulemaking would not affect the procedures as they relate to nonprofit associations.

DATE: Comments by November 29, 1982.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

John Mezes, (202) 343–8693

or

Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: This proposed rulemaking would make a number of changes in the Bureau of Land Management's policy, as well as the application and procedural requirements, for disposal of public lands for recreation and public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). All of the changes will facilitate the processing of applications and expedite the application process.

A major change that would be made by the proposed rulemaking involves revision in the system of filing of petition-applications by applicants and the administrative review by the Bureau of Land Management of the applications. The revised system would utilize a notice of realty action decision document as the classification decision required by the Act. Use of the notice of realty action process will provide for consistency with the same procedural system currently used by the Bureau on other types of public lands proposals and applications for land disposal and use authorizations.

Another change would place in the regulations a recommendation that potential applicants discuss acquisition proposals with the Bureau of Land Management in advance of the filing of a formal application. This preapplication process, which has worked well in other land disposal or use situations, would allow the Bureau to outline the type of information and background detail needed from applicants prior to the filing of an application and thereby speed the processing of the application, once it is filed.

Another change would enable immediate conveyance of title to lands to local governments for sanitary landfill purposes. Existing policy requires that lands for landfill purposes be leased for a number of years before title can be conveyed.

The proposed rulemaking would also add a number of miscellaneous changes that are for clarification as well as changes in policy that have been part of Bureau of Land Management administrative practice for years but have not been included in the regulations.

The principal author of this proposed rulemaking is John Mezes, Division of Lands, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by the proposed rulemaking will expedite the processing of applications for disposal of public lands under the Recreation and Public Purposes Act to governmental and nonprofit entities, both large and small. The effect of the changes will be beneficial to all participants in the program, but will not increase or decrease the overall benefits of the program.

The information collection requirements contained in these amendments to 43 CFR Parts 2740 and 2910 have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

List of Subjects

43 CFR Part 2740

Intergovernment relations, Public lands—sales, Recreation.

43 CFR Part 2910

Airports, Alaska, Mines, Public lands, Recreation areas, Waste treatment and disposal.

Under the authority of the Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.), and sections 211 and 212 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1721), it is proposed to amend Subparts 2740, 2741 and 2742 of Part 2740 and Subpart 2912 of Part 2910, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 2740—RECREATION AND PUBLIC PURPOSES ACT

1. Section 2740.0–5 is amended by adding a new paragraph (d) to read:

§ 2740.0–5 [Amended].

* * * * *

(d) 'Public purpose' means a use in which the public has an interest affecting the health, safety, morals and welfare of the general public, but does not include uses for habitation, cultivation, trade or manufacturing.

2. Section 2740.0–6 is amended by adding new paragraphs (c), (d) and (e) to read:

§ 2740.0–6 [Amended].

* * * * *

(c) Conveyances of Federally owned and reserved mineral interests under the provisions of section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719) on lands conveyed under the act shall not be made.

(d) Conveyances shall not be made for uses which can be more appropriately authorized under existing authorities other than the act or where the long-term recreation or public purposes use can be authorized without a plan of development or physical development of the lands.

(e) Non-Federal lands that have been acquired through exchange procedures (See 43 CFR Part 2200) and which are public lands may not be transferred

from public ownership by use of the authority in this part. If the lands meet the disposal criteria of public interest determination requirements contained in sections 203 and/or 206 of the Federal Land Policy and Management Act, they may be disposed of under the applicable provisions of that Act.

2. Subpart 2741 is amended by:

a. Inserting a new § 2741.3 to read:

§ 2741.3 Preapplication consultation.

(a) Potential applicants should contact the appropriate District Office of the Bureau of Land Management well in advance of the anticipated submission of an application. Early consultation is needed to familiarize a potential applicant with management responsibilities and terms and conditions which may be required in a lease or patent.

(b) Any information furnished by the applicant in connection with preapplication activity or use, which he/she requests not be disclosed, shall be protected to the extent consistent with the Freedom of Information Act (5 U.S.C. 552).

(c) Dependent upon the magnitude and/or public interest associated with the proposed use, various investigations, studies, analyses, public meetings and negotiations may be required of the applicant prior to the submission of the application. Where a determination is made that studies and analyses are required, the authorized officer shall inform the potential applicant of these requirements.

(d) The potential applicant may be permitted to go upon the public lands to perform casual acts related to data collection necessary for development of an acceptable plan of development as required in § 2741.4(b) of this title. These casual acts include, but are not limited to:

(1) vehicle use on existing roads;

(2) sampling;

(3) surveys required for siting of structures or other improvements; and,

(4) other activities which do not unduly disturb surface resources. If, however, the authorized officer determines that appreciable impacts to surface resources may occur, he/she may require the potential applicant to obtain a land use authorization permit with appropriate terms and conditions under the provision of part 2920 of this title.

§ 2741.3 Redesignated as § 2741.4 and amended.

b. Redesignating § 2741.3 as §2741.4 and amending it by adding a new paragraph (c) to read:

* * * * *

(c) Each application shall be accompanied by a nonrefundable filing fee of $100.

§ 2741.4 Redesignated as § 2741.5 and amended.

c. Redesignated § 2741.4 as § 2741.5 and amending it by:

1. Amending paragraph (f) by removing all after the first sentence; and

2. Revising paragraphs (h) and (i) to read:

* * * * *

(h)(1) A notice of realty action classifying public lands as suitable or unsuitable for sale or lease under the act shall be issued, published and sent to parties of interest by the authorized officer, including but not limited to, adjoining landowners and current or past land users, when a determination is made that such public lands are suitable or unsuitable for sale or lease under the act. The notice shall also segregate the lands from other appropriations, including locations under the mining laws, except as provided in the notice or amendment thereto. If no application is filed within 12 months after the issuance of the notice, the segregation shall be automatically vacated and the public lands returned to their former status.

(2) The notice shall include the use proposed for the public lands and shall specify whether the public lands are to be sold or leased. A notice of realty action is not a specific action implementing a resource management plan or amendment.

(3) The notice of realty action shall be published once in the **Federal Register** and once a week for 3 weeks thereafter in a newspaper of general circulation in the vicinity of the public lands included in the application submitted under the act and the regulations.

"(i) Patents or leases with option to patent may be issued for sanitary landfill purposes. Such requests, however, shall be based on ultimate use of the lands after completion of landfill activities and for uses which comply with the intent of the act and then in accordance with the approved development plan. Where the ultimate use of the lands is proposed to be for non-recreational or non-public purposes, such patent request shall be considered as a proposal to purchase the lands under section 203 of the Federal Land Policy and Management Act. Such sales shall be made at a price not less than their current fair market value at the time of purchase. Procedures covering such sales are contained in part 2710 of this title.;

* * * * *

§ 2741.5 Redesignated as § 2741.6.

e. Redesignated § 2741.5 as § 2741.6;

§ 2741.6 Redesignated as § 2741.7 and amended.

f. Renumbering § 2741.6 as § 2741.7 and amending it by adding to paragraph (d) a sentence to read "Where such reserved minerals are subject to disposition under the provisions of the Mineral Leasing Act of 1920, as amended, and supplemented (30 U.S.C. 181 et seq.), the Materials Act of July 31, 1947, as amended (30 U.S.C. 601 et seq.) and the Geothermal Stream Act of 1970 (30 U.S.C. 1001 et seq.), the regulations contained in Subchapter C of this title shall be utilized.";

§ 2741.7 Redesignated as § 2741.8

g. Redesignated § 2741.7 as § 2741.8; and

§ 2741.8 Redesignated as § 2741.9.

h. Redesignated § 2741.8 as § 2741.9.

3. Subpart 2742 is amended by:

a. Inserting a new § 2741.1 to read:

§ 2742.1 Lands subject to disposition.

Omitted lands and unsurveyed islands may be conveyed to States and their local political subdivisions under the provisions of section 211 of the Federal Land Policy and Management Act (43 U.S.C. 1721).

§§ 2742.1 through 2742.4 Redesignated as §§ 2742.2 through 2742.5.

b. Redesignating existing §§ 2742.1 through 2742.4 as §§ 2742.2 through 2742.5.

PART 2910—LEASES

4. Subpart 2912 is amended by:

a. Amending § 2912.1–1 by adding a new paragraph (h) to read:

§ 2912.1–1 [Amended].

* * * * *

(h) Public lands included in a mining claim upon which a validity determination has not been made may be leased under the provisions of the act. Leases issued under the act shall contain a provision that the lease is subject to all valid existing rights, including mining claims. Acceptance of a lease subject to valid existing rights is the responsiblity of the applicant.;

b. Revising § 2912.4–1 to read:

§ 2912.4–1 Requirement.

Compliance with all applicable regulations and guidelines regarding solid waste management or disposal is required under a lease issued for purposes involving disposal of solid waste.; and

d. Revising § 2912.4–2 to read:

§ 2912.4-2 Procedures.

(a) All new leases shall contain stipulations requiring compliance with existing regulations and guidelines on the subject of solid waste management and disposal. The authorized officer shall require that leases and respective plans of development and management already in existence without such specific stipulations shall be amended to require compliance with the regulations and guidelines on solid waste management and disposal. In all cases, the lease shall stipulate that failure to comply with the regulations and guidelines on solid waste management and disposal shall constitute sufficient grounds for cancellation of the lease.

(b) Lease applications shall include in the plan of development and management a detailed description of the methods and procedures that will be employed to achieve compliance with existing regulations and guidelines on solid waste management and disposal. The regulations and guidelines delineate minimum standards of performance that shall be followed. The recommended methods and procedures in the guidelines are means whereby requirements may be met. Alternate methods and procedures may be used in meeting the requirements when approved by the authorized officer.

Dated: August 30, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-26577 Filed 9-27-82; 8:45 am]

BILLING CODE 4310-84-M

federal register

Tuesday
September 28, 1982

Part IV

Environmental Protection Agency

General Pretreatment Regulations for Existing and New Sources; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[OGC-FRL 2181-2]

General Pretreatment Regulations for Existing and New Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On January 28, 1981, the Environmental Protection Agency promulgated amendments to the General Pretreatment Regulations for Existing and New Sources (46 FR 9404–9460). On March 27, 1981, the effective date of these amendments was indefinitely postponed, in order to enable the Agency to conduct a Regulatory Impact Analysis under Executive Order 12291 (46 FR 19936, April 2, 1981). On January 31, 1982, pursuant to a rulemaking commenced by the Agency on October 13, 1981 (46 FR 50502–50503), all but four of the amendments were put into effect (47 FR 4518, February 1, 1982). On July 8, 1982, the United States Court of Appeals for the Third Circuit issued an opinion finding that the Agency's original indefinite deferral of the amendments to the general pretreatment regulations conrtavened the notice and comment provisions of the Administrative Procedure Act. To remedy this violation, the Court directed the Agency to retroactively reinstate all of the amendments, effective March 30, 1981. By today's notice, the Agency is complying with the Court's order and reinstating all of the amendments as of March 30, 1981.

DATES: The effective date of the amendments to the general pretreatment regulations originally promulgated on January 28, 1981, is March 31, 1981.

FOR FURTHER INFORMATION CONTACT: Bill Diamond, Environmental Protection Agency, Permits Division (EN–336), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–4793.

SUPPLEMENTARY INFORMATION:

I. Background

On June 26, 1978, the Environmental Protection Agency (EPA) promulgated the General Pretreatment Regulations establishing mechanisms and procedures for controlling the introduction of wastes from industry and other non-domestic sources into publicly-owned treatment works (POTWs) (43 FR 27736–27773). Following promulgation, several parties brought actions in Federal court challenging these regulations. On January 28, 1981, pursuant to the terms of a settlement agreement entered into by some of the parties, EPA promulgated amendments to the 1978 regulations (46 FR 9404–9460). These amendments were originally scheduled to take effect on March 13, 1981. Their effective date was temporarily deferred until March 30, 1981 under the President's Memorandum of January 29, 1981 (46 FR 11972, February 12, 1981). On March 27, 1981, EPA indefinitely postponed the amendments' effective date to enable it to conduct a Regulatory Impact Analysis of the general pretreatment program under Executive Order 12291. EPA published a notice in the **Federal Register** to this effect on April 2, 1981 (46 FR 19936).

Subsequent to EPA's indefinite deferral of the effective date of the general pretreatment amendments, a suit was brought by the Natural Resources Defense Council (NRDC) in the United States Court of Appeals for the Third Circuit challenging EPA's deferral of the general pretreatment amendments without notice and comment (*NRDC* v. *EPA*, No. 81–2068). On October 13, 1981, while this suit was pending, EPA announced that it was terminating the indefinite deferral of the amendments, making them effective January 31, 1982 (46 FR 50502). In a separate action also taken on October 13, the Agency initiated a rulemaking and invited public comment on the issue of whether the effective date of all or specific portions of the amendments should be further postponed (46 FR 50503). After evaluating the comments received in response to the October 13 proposal, EPA, on February 1, 1982, announced that it was deferring the effective date of four of the amendments pending further analysis but that the remaining amendments would go into effect (47 FR 4518). The four amendments which continued to be deferred were the combined watestream formula (§ 403.6(e)), the removal credits section (§ 403.7) and the definitions of "pass through" (§ 403(n)) and "interference" (§ 403.3(i)).

On July 8, 1982, the United States Court of Appeals issued its opinion in the NRDC suit, finding that EPA's March 27, 1981 deferral of the amendments to the general pretreatment regulations violated the notice and comment provisions of the Administrative Procedure Act. To remedy this procedural violation, the Court directed EPA to retroactively reinstate all of the amendments as of March 30, 1981, including the four amendments which EPA further deferred on February 1, 1982. At the same time, the court noted that its decision did not "forestall future agency action with regard to the four amendments, provided such action is taken in compliance with the Administrative Procedure Act."

Pursuant to the Court's direction, EPA is hereby reinstating all of the amendments to the general pretreatment regulations, effective March 30, 1981. The Agency is continuing, however, to deliberate on what future steps might be appropriate with respect to these amendments.

One of the amendments which EPA continued to defer on February 1, 1982, but which is being put into effect by today's action is the combined wastestream formula. This formula triggers the three year compliance deadline for integrated facilities under the electroplating pretreatment standards (see, 40 CFR 413.01). As a result of today' action, these facilities will have three years from the combined wastestream formula's March 30, 1981 effective date, or until March 30, 1984, to comply with the electroplating pretreatment standards. Also as a result of today's action, the time allotted for integrated facilities to submit baseline reports (§ 403.12(b)), fundamentally different factors variance requests (§ 403.13) and category determination requests (§403.6) will begin to run. These facilities will have six months from today's date to submit baseline reports and fundamentally different factors variance requests and sixty days from today's date to submit category determination requests.

Today's reinstatement of the amendments to the general pretreatment regulations is being done to rectify past failure to provide notice and comment and is dictated by court order. Thus, there is "good cause" to dispense with notice and comment prior to the reinstatement. See *American Federation of Government Employees, AFL–CIO, v. Block*, 655 F.2d 1153 (D.C. Cir. 1981).

This notice was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection through contacting the person listed in the front of this notice. EPA is presently in the process of completing a regulatory impact analysis of the general pretreatment program, of which these amendments are part.

OMB has approved the following information collection requirements under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* These requirements have been assigned the following control numbers.

Citation	Title	OMB No. 2040-
40 CFR 122.61	Report by Publicly Owned Treatment Works of New or Increased Pollutant Introduction.	0010
40 CFR 403.6	Category Determination Report	0015
40 CFR 403.7	Removal Credit Approval Request.	0020
40 CFR 403.7	Removal Credit Self-Monitoring Report.	0025
40 CFR 403.9	POTW Pretreatment Program Approval Request.	0016
40 CFR 403.10	State Pretreatment Program Approval Request.	0019
40 CFR 403.12	Industrial Self-Monitoring Report.	0024
40 CFR 403.12	POTW Compliance Schedule Work Plan.	0013
40 CFR 403.12	Industrial Pretreaters Compliance Schedule Reports.	0014
40 CFR 403.12	Baseline Monitoring Report	0012
40 CFR 403.12	Industrial Pretreaters Slug Load Notification.	0023
40 CFR 403.12	POTW Maintenance of Monitoring Records.	0022
40 CFR 403.12	Industrial Pretreaters Compliance Attainment Report.	0011
40 CFR 403.13	Fundamentally Different Factors Variance Requests.	0017
40 CFR 403.15	Net/Gross Request Credit for Intake Water Pollution.	0018

List of Subjects in 40 CFR 403

Confidential business information, Reporting and recordkeeping requirement, Waste treatment and disposal, Water pollution control.

Dated: September 21, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-26586 Filed 9-27-82; 8:45 am]

BILLING CODE 6560-50-M

federal register

Tuesday
September 28, 1982

Part V

Department of the Interior

Mineral Management Service

Central and Western Gulf of Mexico Outer Continental Shelf Sales Nos. 81 and 84; Call for Information for Oil and Gas Leasing

4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Central and Western Gulf of Mexico Outer Continental Shelf
Sales Nos. 81 and 84
Call for Information for Oil and Gas Leasing

Purpose of Call

The purpose of the Call is to assist the Secretary of the Interior in carrying out his responsibilities under the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331-1343), as amended (92 Stat. 629). Potential bidders are requested to outline broad areas where they believe hydrocarbons may occur or where they have an interest in leasing in the Central and Western Gulf of Mexico. The Secretary is also requesting comments from all interested parties--Federal, State, and local governments, environmental groups, the general public, and potential bidders--on possible environmental effects and use conflicts in the Call area, and on the appropriateness of initial lease terms longer than 5 years and lease tracts larger than 5,760 acres.

Use of Information from Call

Information submitted in response to this Call will be considered in selecting the areas of hydrocarbon potential to be proposed for leasing and analyzed in the environmental impact statement (EIS) as the proposed Federal action. This information will also be used in identifying alternatives to the proposed action. Comments received on possible environmental effects and use conflicts may be used in the analysis of local environmental conditions within the Call area so that the potential effects of oil and gas exploration and development, other than the benefits accruing to the Nation as a result of inventorying and producing oil and gas, can be assessed.

These comments may also be useful in developing special lease terms and conditions designed to assure safe offshore operations. Comments submitted regarding length of lease term and size of lease tract may be used in the assessment of the appropriate initial lease term and appropriate tract size, pursuant to section 8 of the OCS Lands Act, as amended (43 U.S.C. 1337).

Description of Area

The general area of this Call lies between 26°N and 30°N latitude and 88°W and 97°W longitude. The Call area is offshore the States of Mississippi, Alabama, Louisiana, and Texas and extends offshore the seaward boundary of those States to roughly the 3,000 meter isobath. Indications of interest and comments may be considered for any area within the boundaries of the Call. Boundaries of the Call area are shown on the maps at the end of this Call.

The following list identifies the Official Protraction Diagrams and leasing maps included in this Call. The diagrams and maps may be purchased by mail from the Minerals Manager, Minerals Management Service (MMS), Gulf of Mexico OCS Region, P.O. Box 7944, Metairie, Louisiana 70010, or in person at 3301 N. Causeway Blvd., Metairie, Louisiana.

a. Outer Continental Shelf Leasing Maps--South Texas Nos. 1 through 4. This is a set of 7 maps which sells for $5.00.

b. Outer Continental Shelf Leasing Maps--East Texas Nos. 5 through 8. This is a set of 9 maps which sells for $7.00.

c. Outer Continental Shelf Leasing Maps--Louisiana Nos. 1 through 12. This is a set of 27 maps which sells for $17.00.

d. Outer Continental Shelf Official Protraction Diagrams. These maps sell for $2.00 each.

NG 14-3 Corpus Christi	NG 15-6 Walker Ridge
NG 14-6 Port Isabel	NG 16-1
NG 15-1 East Breaks	NG 16-4
NG 15-2 Garden Banks	NH 16-4 Mobile
NG 15-3 Green Canyon	NH 16-7 Viosca Knoll
NG 15-4 Alaminos Canyon	NH 15-12 Ewing Bank
NG 15-5 Keathley Canyon	NG 16-10 Mississippi Canyon

Instructions on Call

Indications of interest from potential bidders should be limited to the areas included in the Official Protraction Diagrams and leasing maps as described above. Those indicating interest are requested to do so on a standard Call for Information Map, available free from the Minerals Manager, Gulf of Mexico OCS Region, at the address stated in the second paragraph under "Description of Area"; telephone (504) 837-4720. This map shows the Call area and shows that the entire area as identified by the MMS has potential for the discovery of deposits of oil and gas. Respondents are requested to suggest areas of potential interest within the planning areas. Although individual indications of interest are considered to be privileged and confidential information, the names of persons or entities indicating interest or submitting comments will be of public record.

Respondents are requested to rank areas according to priority of interest (e.g., priority 1, 2, or 3). Priority information by company will be held confidential and will be used as a criterion in determining the area identification. If a company does not choose to assign a priority to its nominations, those areas delineated will be assigned a medium, or priority 2, nomination.

In addition to indications of interest, we are seeking comments from all interested parties about particular geological, environmental, biological, archaeological, socioeconomic conditions or problems, or other information which might bear upon potential leasing and development of particular areas. Comments should preferably address broad areas, but may be restricted to designated blocks of particular concern.

Comments are also being sought from all interested parties on the appropriateness of initial lease periods longer than 5 years, and on the need, if any, for lease tracts larger than 5,760 acres. Such comments should describe why such modifications would be appropriate and identify where modifications should be applied. Those making comments are requested to mark the area on the standard Call for Information Map discussed above.

Indications of interest and comments must be submitted no later than 30 days following publication of this document in the Federal Register in envelopes labeled "Indications of Interest for Leasing in the Outer Continental Shelf Central and Western Gulf" or "Comments on Leasing in the Outer Continental Shelf Central and Western Gulf," as appropriate. They must be submitted to the Minerals Manager, Gulf of Mexico OCS Region, at the address stated in the second paragraph under "Description of Area." A copy should be sent to the Chief, Offshore Resource Evaluation Division, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 643, Reston, Virginia 22091.

Final delineation of the area for competitive bidding will be made only at a later date after compliance with established departmental procedures, all requirements of the National Environmental Policy Act of 1969, and the Outer Continental Shelf Lands Act, as amended.

A final Notice of Sale, detailing areas to be offered for competitive bidding, will be published in the Federal Register indicating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

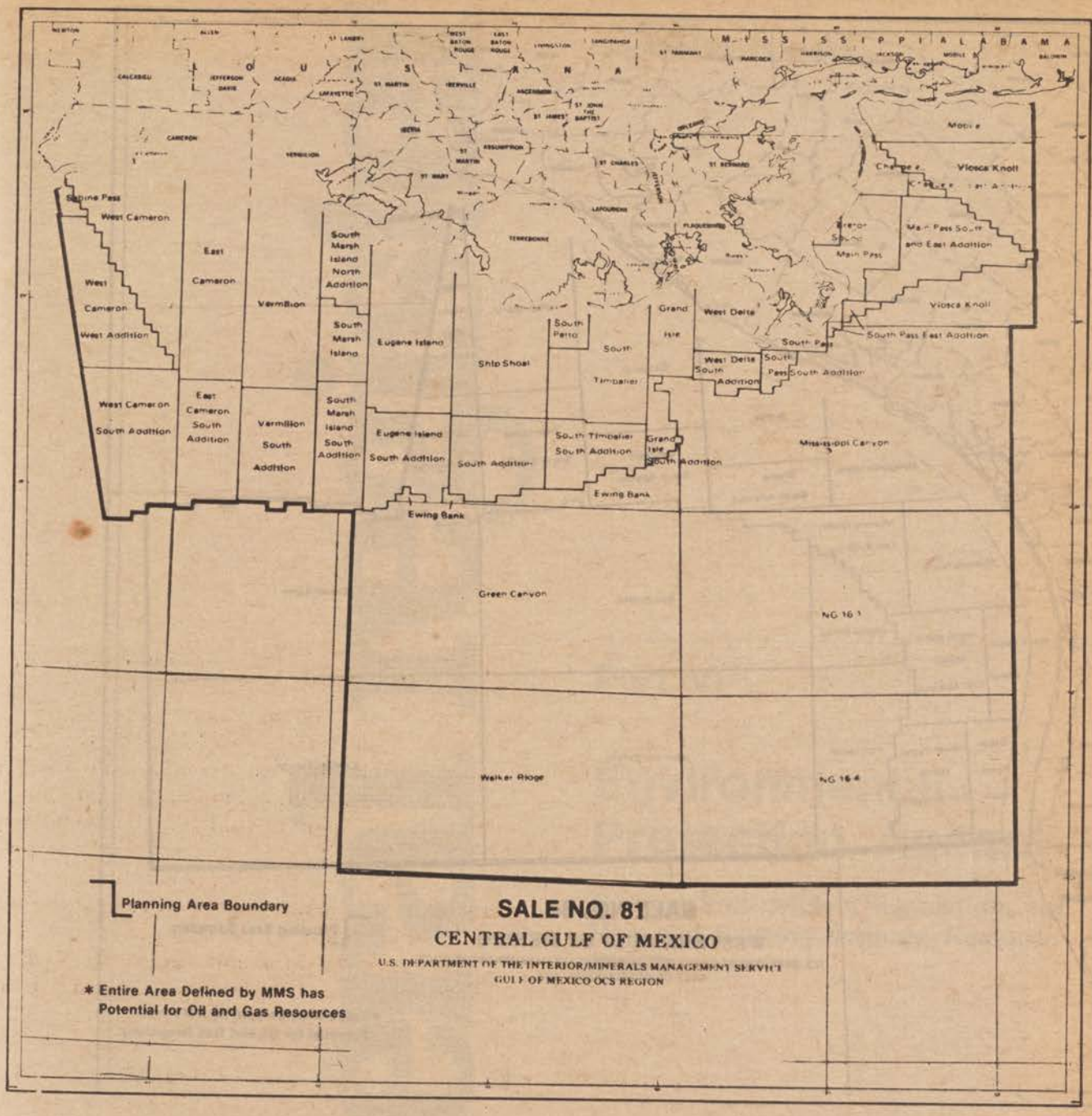
AUG 31 1982

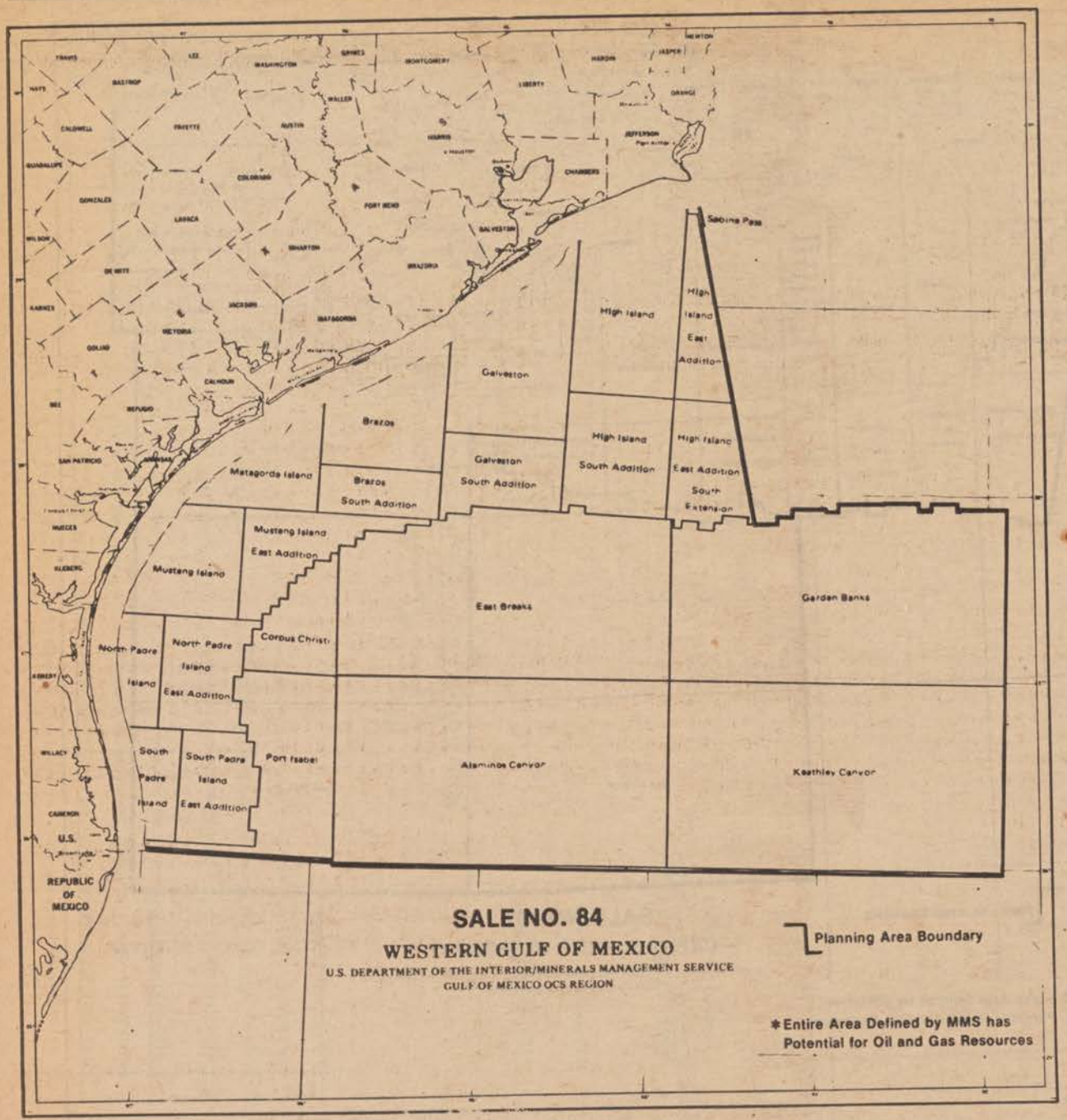
Deputy Director, Minerals Management Service
David C. Russell

Date: 9/23/82

Approved

Under Secretary of the Interior
Donald Paul Hodel


LOUISIANA
MISSISSIPPI ALABAMA
Sabine Pass
West Cameron
West Cameron West Addition
West Cameron South Addition
East Cameron
East Cameron South Addition
Vermilion
Vermilion South Addition
South Marsh Island North Addition
South Marsh Island
South Marsh Island South Addition
Eugene Island
Eugene Island South Addition
Ship Shoal
South Addition
South Pelto
South Timbalier
South Timbalier South Addition
Grand Isle
Grand Isle South Addition
West Delta
West Delta South Addition
South Pass
South Pass South Addition
South Pass East Addition
Main Pass
Main Pass South and East Addition
Viosca Knoll
Mobile
Ewing Bank
Mississippi Canyon
Green Canyon
NG 16-1
Walker Ridge
NG 16-4
Planning Area Boundary
* Entire Area Defined by MMS has Potential for Oil and Gas Resources
SALE NO. 81
CENTRAL GULF OF MEXICO
U.S. DEPARTMENT OF THE INTERIOR/MINERALS MANAGEMENT SERVICE
GULF OF MEXICO OCS REGION



[FR Doc. 82-26650 Filed 9-27-82; 8:45 am]

BILLING CODE 4310-84-C

federal register

Tuesday
September 28, 1982

Part VI

Environmental Protection Agency

General Pretreatment Regulations for New and Existing Sources; Removal Credits

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[WH-FRL-2152-7]

General Pretreatment Regulations for New and Existing Sources—Removal Credits

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On June 26, 1978, the Environmental Protection Agency ("EPA") promulgated General Pretreatment Regulations for Existing and New Sources (43 FR 27736–27773). On January 28, 1981, in settlement of various suits challenging these regulations, EPA promulgated amendments to the 1978 regulations (46 FR 9104–9460). These amendments were originally scheduled to take effect on March 13, 1981. Their effective date was indefinitely postponed, however, to permit EPA to conduct a Regulatory Impact Analysis of the general pretreatment program under Executive Order 12291 (46 FR 19936, April 2, 1981). On January 31, 1982, all but four of the amendments were put into effect (46 FR 50502–50503, October 13, 1981; 47 FR 4518, February 1, 1982). One of the amendments which continued to be deferred was the removal credits section. On July 8, 1982, the United States Court of Appeals for the Third Circuit directed EPA to reinstate all of the amendments to the general pretreatment regulations, including the removal credits section.

EPA is today proposing revisions to the removal credits section of the general pretreatment regulations to make that section simpler and more workable.

DATE: Comments must be submitted on or before November 29, 1982.

ADDRESSES: Comments should be addressed to: Bill Diamond, Environmental Protection Agency, Permits Division (EN–336), Room 3220, 401 M Street, SW, Washington, D.C. 20460, (202) 426–4793.

The record supporting this proposal will be made available for inspection through contacting Bill Diamond.

FOR FURTHER INFORMATION CONTACT: Bill Diamond, Environmental Protection Agency, Permits Division (EN–336), 401 M Street SW, Washington, D.C. 20460, (202) 426–4793.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

On June 26, 1978, the Environmental Protection Agency ("EPA") promulgated general pretreatment regulations which established procedures for controlling the introduction of wastes from industry and other non-domestic sources into publicly owned treatment works [POTWs] (43 FR 27736–27773).

Following the promulgation of the general pretreatment regulations in 1978, several parties brought actions in Federal court challenging various aspects of the regulations. On October 29, 1979, pursuant to the terms of a settlement agreement entered into by some of the parties, EPA published proposed amendments to the general pretreatment regulations. These amendments were finalized on January 28, 1981 (46 FR 9404–9460). On March 27, 1981, EPA indefinitely postponed the effective date of the 1981 amendments in order to enable the Agency to conduct a Regulatory Impact Analysis (RIA) of the general pretreatment program under Executive Order 12291 (46 FR 19936, April 2, 1981). On October 13, 1981, EPA terminated the indefinite postponement of the January 1981 amendments and established January 31, 1982 as their effective date (46 FR 50502). On the same day, EPA invited comment on a proposal that the effective date of the amendments be further postponed (46 FR 50503). Most of the 1981 amendments were allowed to go into effect on January 31, 1982. However, a few of the amendments, including the removal credits provisions, were further postponed (47 FR 4518, February 1, 1982). On July 8, 1982, the United States Court of Appeals for the Third Circuit directed EPA to reinstate, effective March 30, 1981, all of the amendments to the general pretreatment regulations, including the removal credits section.

An important part of the June 1978 general pretreatment regulations and the January 1981 amendments was the section governing removal credits (Section 403.7). That section was designed to implement a 1977 amendment to section 307(b)(1) of the Clean Water Act, which allows a POTW to provide industrial users with a "credit" (in the form of reduced pretreatment requirements) for the toxic pollutants removed by the POTW. Industrial Users which qualify for such a "credit" are allowed to discharge larger quantities of toxic pollutants to the POTW. The removal credits section established the conditions under which POTWs could obtain approval to award removal credits and provided the means by which these removal credits should be determined.

Notwithstanding an attempted streamlining in the January, 1981 amendments, the § 403.7 removal credits section has been criticized as being so burdensome and unwieldy as to discourage POTWs from applying for and obtaining authorization to grant removal credits. EPA is today proposing further modifications to the removal credits section to create clearer and more workable provisions.

EPA does not consider today's proposal to be inconsistent with the Regulatory Impact Analysis process. If, as a result of that analysis, the direction of the pretreatment program changes, the removal credits provision can be changed accordingly.

II. Summary of Modifications

Since today's proposal, as well as previous versions of the removal credits section, are a direct outgrowth of statutory requirements, a brief review of the statutory context is warranted. The statutory authority for removal credits is found in a 1977 amendment to Section 307(b)(1) of the Clean Water Act. That section, as amended, permits a POTW to adjust the pretreatment requirements for sources discharging toxic pollutants into the POTW to reflect the removal of such toxic pollutants by the POTW. The availability of such an adjustment, or credit, is however, subject to a number of conditions. First, and most obviously, there must be some demonstrable removal of the toxic pollutant by the POTW. A second requirement is that the discharge from the POTW "* * * not violate that effluent limitaton or standard which would be applicable to (the toxic pollutant removed by the POTW) if it were discharged by [the industrial source] other than through a [POTW]." A third requirement is that the removal of toxic pollutants by the POTW not cause the POTW to violate sludge use or disposal requirements under section 405 of the Act. A fourth requirement is that the POTW develop a local compliance program.

These statutory requirements establish the essential framework for any removal credits scheme. At a minimum, such a scheme must contain some means of calculating and demonstrating consistent removal, require compliance with applicable sludge requirements, and require development of a local compliance program. In addition, it must establish procedures for obtaining approval to grant removal credits.

The revised credit section proposed today implements this basic plan in a more flexibile manner than the earlier removal credits sections. By far the most

important change is the provision for "national removal rates." The revised section provides that POTWs which have complied with secondary treatment requirements, or are within one year of meeting those requirements, may demonstrate consistent removal by reliance on "national" removal rates developed by EPA, rather than through collecting data on their individual removal performances. Another important change is the liberalization of the removal demonstration requirements for POTWs which have not complied with the secondary treatment limitations, or are not close to complying with those limitations. These POTWs must still demonstrate consistent removal by sampling their actual individual plant performance, as was previously required. However, these sampling requirements have been made more flexible by permitting the POTWs to use historical sampling data and to utilize sampling schemes other than the twelve month sampling scheme generally prescribed. Other important changes are the elimination of the adjustment for combined sewer overflows and the simplication of approval procedures. A detailed description of these changes is provided below.

III. Description of Proposed Requirements

Section 403.7(a) Introduction

This introductory section sets out the "ground rules" under which POTWs can obtain authorization to give removal credits. Paragraph (a)(2) makes it clear that the POTW has complete discretion in deciding whether to award removal credits: A POTW qualifying for removal credits may decline to give removal credits or may award a lower removal credit than it is capable of giving. Paragraph (a)(3) outlines the five prerequisites which must be met before POTWs can obtain authorization to give removal credits. The POTW must (1) submit an application or certification (2) demonstrate consistent removal (3) have an approved local pretreatment program (or qualify for the exception to this requirement) (4) meet all applicable sludge requirements and (5) meet any NPDES permit limitation for toxic pollutants covered by the proposed removal credits. These conditions, as discussed above, are for the most part a direct outgrowth of statutory requirements. Paragraph (a)(3) also warns POTWs that if granting removal credits forces them to incur greater sludge management costs than they would incur in the absence of granting removal credits, EPA will not pay for the additional sludge management costs. Paragraph (a)(4) identifies the basic equation from which one calculates the removal credit. This equation is the same as the one contained in the 1978 regulations and the 1981 amendments.

Section 403.4(b) "Consistent Removal"

One of the most important components of the removal credits program, and the one probably criticized most frequently for rendering the program "unworkable," is the section setting forth requirements for demonstrating consistent removal. An attempt has been made to simplify substantially this process by allowing POTWs which are in compliance with secondary treatment requirements to apply a rate of consistent removal based on EPA data on POTW performance, rather than individual performance data collected by the POTW. The Agency's data were obtained in an analytical survey of forty POTWs with secondary treatment and, in almost every case, consist of six influent and effluent 24 hour composite measurements for each pollutant. Using this data, the Agency has calculated "national removal rates" which may be used by qualifying POTWs to demonstrate consistent removal for specific pollutants. In deriving these national removal rates, the Agency screened the pollutant data from all of the forty POTWs for suitability for estimating percent removal. From the selected data, EPA estimated the removal rate for each pollutant at each POTW by taking the difference of the arithmetic average of the influent and effluent measurements, expressed as a percentage. EPA then constructed a cumulative frequency distribution of the removal rates observed for each pollutant. The Agency selected the twenty-fifth percentile of the removal rate distribution as the national removal rate for that pollutant (expressed in terms of percent removal). In other words, the Agency chose a removal rate which was met by roughly seventy-five percent of the POTWs in the screened data base.

The Agency considered three alternatives in choosing the the removal estimate upon which to base the national removal rates—the twenty-fifth percentile of the removal distribution, the median (or fiftieth) percentile, and the average removal. The Agency's objective was to select a percent removal that would be met by most well designed and operated POTWs achieving the secondary treatment standards. The Agency concluded that the twenty-fifth percentile of the removal distribution for the screened data base satisfies this objective without being so conservative that a few POTWs showing poor removal for a particular pollutant (those at the low end of the removal distribution) would determine the removal rate.

The main consideration in choosing the twenty-fifth percentile is the Agency's belief that the POTWs in the 40 plant data base are well operated and maintained so that, as a group, these POTWs are likely to achieve better reductions than the population of all POTWs meeting the secondary limitations. If this is the case, a percent reduction achieved by roughly seventy-five percent of the 40 plants would correspond to a reduction achieved by a somewhat smaller percentage (for example, fifty or sixty percent) of the POTW population eligible for the national rates and would therefore be closer to the median performance of the total eligible population. Another, less important consideration in choosing the twenty-fifth percentile is that in most cases the removal distribution tends to have more dispersion below the neighborhood of the twenty-fifth percentile, while removals above the twenty-fifth percentile are grouped within a somewhat narrower range. That is, removals above the area of the twenty-fifth percentile (the majority of removal estimates in the distribution) tend to be consistently high, while removals below the twenty-fifth percentile are less consistent and cover a wide range of removals in the lower end of the distribution. Thus, in most cases, the neighborhood of the twenty-fifth percentile tends to be a convenient "break" point in the distribution. This "break" point is, of course, a general diagrammatic quality of the removal distributions rather than a precise mathematical characteristic.

The Agency recognizes, however, that there are arguments which militate in favor of using the average or median removal instead of the twenty-fifth percentile. The basic issue is how well the available data approximate the distribution of removals in the eligible population. While the Agency believes the sample population performs somewhat better with respect to metals removal than the population of eligible POTW's, the actual distributions are unknown. Therefore, the question of how well the sample population performs relative to the population of eligible POTW's can not be answered with certainty. If the sample distributions are assumed to approximate closely the population distributions, there is no need to select a removal estimate that compensates for an assumed discrepancy, as is the case

with the twenty-fifth percentile. In this case, a removal estimate based on the average or median of the sample distribution would provide a reasonable value for the national removal rate. Further, the national removal rates represent the maximum allowable credits (unless the POTW individually samples its removal rate). The POTW has the discretion to grant its industrial dischargers lower credits or none at all, based on local control needs.

The table below provides the removal rates that would be obtained using the different removal distribution estimates. The Agency solicits comments on the relative merits or accuracy of these alternatives for determining the allowable level of removal credits. Also, the Agency solicits data on pollutant removal at POTWs to supplement the Agency's data base. (A more detailed description of the data and methodology for determining national removal rates can be found in a background report, "Determining National Removal Credits for Selected Metals at POTWs").

NATIONAL REMOVAL RATES BASED ON DIFFERENT REMOVAL DISTRIBUTION ESTIMATES

	25th precentile (precent)	50th Percentile (precent)	Average (percent)
Cadmium	38	61	55
Chromnium	65	76	69
Copper	58	82	75
Cyanide	52	61	59
Lead	48	70	63
Nickel	19	33	24
Silver	66	78	76
Zinc	65	78	70
Total regulated metals	62	71	68

Since the data supporting the national removal rates reflects the performance of well-operated POTWs meeting secondary treatment (and is only valid for this class of facilities) the availability of the national removal rates is being restricted to POTWs which have been in "compliance" with the secondary treatment limitations for BOD and suspended solids found at 40 CFR 133.102(a) and (b) for the six months preceding their application for removal credits. "Compliance" is defined in § 403.7 (b)(1)(i) to mean that the POTW has not exceeded the maximum 30 day average for BOD and suspended solids found at §133.102(a)(1) and (b)(1) by more than 25% in any one month. The Agency is employing this definition so that POTWs will not be disqualified from using the national rates for violations of the secondary treatment standards which are either minor or non-recurring in nature. Recent amendments to the Clean Water Act may well affect the secondary treatment limitations found at 40 CFR 133.102(a) and (b). Should the Agency relax these limitations, it may be necessary to restrict the availability of the national rates to POTWs which are in compliance with the current, more restrictive, secondary treatment limitations, since the rates are only reflective of the removal performance of POTWs meeting the current secondary limitations. Once final secondary treatment limits for trickiling filters and waste stabilization ponds are promulgated, the Agency will review the available data to determine if national removal credits for the relaxed effluent limits are possible.

Under paragraph (b)(1)(ii), POTWs which have not yet complied with the secondary treatment limitations but are approaching compliance can provisionally qualify for the national rates if they can show that they will be in compliance within one year. If the Approval Authority elects, it can extend this interim qualification to POTWs which will be in compliance no later than the date the industrial users benefitting from the removal credits are required to comply with their categorical pretreatment standards, as long as the POTW is subject to a compliance schedule which requires compliance by this date. EPA estimates that, under the above provisions, more than 45 percent of all POTWs will be able to qualify for the national removal rates.

EPA attempted to construct national removal rates for POTWs achieving less than secondary treatment, but unfortunately encountered anomalous data which rendered generalization of treatment performance difficult. Consequently, POTWs which do not qualify for the national removal rates must demonstrate consistent removal through reliance on their individual plant performance in accordance with the provisions of paragraph (b)(2). In addition, POTWs which want to give a credit for a pollutant not covered by the national removal rates or want to give a bigger credit than the national rates allow must demonstrate consistent removal under the provisions of paragraph (b)(2). These provisions require generally that the POTW collect twelve influent and effluent samples at approximately equal intervals throughout one full year, analyze these samples for the appropriate pollutants and calculate consistent removal accordingly. These provisions resemble their counterparts in the 1981 amendments. Nevertheless, they do contain a number of features which should make demonstration of actual consistent removal easier and more flexible. First, the proposal explicitly provides that upon concurrence of the Approval Authority, the POTW may use historical data as either a substitute for or a supplement to the twelve samples collected or use a different sample collection scheme than the one prescribed. The only express condition with respect to the use of historical data or alternative sampling design is that the data be representative of the POTW's performance and operating conditions. Second, rather than prescribe rigorously the manner in which the samples are to be collected, as was done in the 1981 amendments, the proposal describes these sampling procedures in the Appendix as guidance. Third, the proposal contains a slightly different means for calculating consistent removal. Instead of taking the average of the lowest fifty percent of measured removals as was done in the 1981 amendments, the proposal calculates consistent removal as the difference between the average influent and effluent concentrations in all the sample data. This method, which does not exclude sample observations, is believed to provide a more reliable estimate of the actual removal achieved than the method employed in the 1981 amendments.

It is, of course, important to the accuracy of the consistent removal calculation that all sample data be used if possible. Problems arise, however, where the pollutant is not measurable in influent and effluent samples. Where the pollutant is not measurable in any influent samples (even though known to be discharged by industrial users into the sewer system), paragraph (b)(2)(iv)(B) of the proposal provides, like the 1981 amendments version, that the sample data not be used. In such event, the POTW may calculate removal using either historical data or data from treatability studies from similar POTWs, upon concurrence of the Approval Authority. If the pollutant is measurable in at least some influent or effluent samples, but not in all, paragraph (b)(2)(iv)(C) provides that the sample data may be used at the discretion of the POTW upon approval by the Approval Authority. In such event, influent and effluent observations below the level of detectability should be set equal to the level of detectability.

Ordinarily, removal credits will be sought for pollutants which are being discharged currently in measurable concentrations into the POTW. Occasionally, however, a new or modified facility will want a removal credit for a pollutant which is not being discharged at measurable concentrations into the POTW from any

facility. If the POTW qualifies for the applicable national removal rates, this poses no problem because the POTW can simply utilize the national rate in calculating the removal credit. If the POTW does not qualify for or wish to use the national rates, however, a problem arises because the POTW is obviously incapable of demonstrating actual removal prior to the discharge of the pollutant into the POTW treatment system. Accordingly, the proposal provides at paragraph (b)(3) that consistent removal may be provisionally demonstrated using data from treatability studies, provided that consistent removal is demonstrated in the conventional manner within eighteen months of the commencement of the discharge.

Compensation for Overflow

To ensure that the POTW's calculation of consistent removal accurately reflected the actual removal achieved, the 1981 amendments provided that the POTW must either take steps to contain overflow or adjust its consisent removal rate to account for overflow. Today's proposal dispenses with these overflow compensation requirements because, in the Agency's view, the overflow adjustment makes a negligible difference in the final removal credit.

In 1978, the Agency surveyed 15 POTWs to determine the impact of combined sewer overflow. The study analyzed runoff characteristics in the drain basins for 10 of the 15 POTWs to determine the magnitude of a rainfall event that would trigger a sewer overflow. Relying on frequency modeling of the rainfall characteristics of the 10 sites, the report found that combined sewers will overflow an average 7.3% of the time.

One can estimate the maximum impact which this overflow will have on the removal credit by making the very conservative assumption that there is no treatment of pollutants by the POTW during this 7.3% period and adjusting the removal credit downward to account for this lack of treatment. After this adjustment is performed, it becomes apparent that combined sewer overflow does not measurably affect the final removal credit.

For example, assume that the POTW's actual removal rate for the toxic pollutant lead were 50%, or approximately what is specified in the national removal rate. To adjust this 50% removal rate to account for the 7.3% period during which no removal is taking place, this 50% should be multiplied by .927 (since the 50% removal is only occurring 92.7 percent of the time). Performing this calculation, the adjusted rate equals 46.35%. The best comparison of the effect this difference in removal will have on the ultimate revised discharge limit is provided by calculating the revised discharge limit with both the adjusted and unadjusted rates using the equation found at § 403.7(a)(4):

$$y = \frac{x}{1-r}$$

(where y equals the revised discharge limit, x equals the pollutant discharge limit under the applicable categorical pretreatment standard, and r equals the removal rate). If the categorical pretreatment limitation on lead were 1.0 mg/1. the revised discharge limit using the removal rate unadjusted for combined sewer overflow would be 2.0 mg/1. Using the adjusted rate, the revised discharge limit would be 1.86 mg/1. The Agency believes the environmental consequences of such differences are insignificant and do not warrant performing the overflow compensation calculation, especially given the fact that the conservative assumptions employed in calculating the difference tend to considerably overstate what the actual difference would be. In actuality, one would expect at a minimum, that some treatment would occur during an overflow event, and that actual overall removal would thus be greater than assumed in the above calculations.

Section 403.7(a)(3)(iii) and (c) Local Pretreatment Program Requirement and Exception Thereto

Paragraphs (a)(3)(iii) and (c) of the proposal are for the most part similar to their counterparts in the 1981 general pretreatment amendments. Paragraph (a)(3)(iii) provides that a POTW must develop a local pretreatment program as a prerequisite to obtaining removal credit authorization unless development of such a program is not required by Part 403. Paragraph (c) creates an exception to this requirement, which allows POTWs to award removal credits pending approval or development of a pretreatment program if two conditions are met. First, all industrial users who wish to conditionally receive a removal credit must supply the POTW with the information required in § 403.12(b)(1)–(7) (except for new or modified industrial users not currently discharging pollutants, who must only submit the information required in § 403.12(b)(1)–(6)). The agency is requiring submission of this information because it will be of great value in helping a POTW decide whether to award removal credits and, under § 403.12(b), would eventually have to be submitted by the industrial users anyway. Second, the POTW must submit an application for pretreatment program approval meeting the requirements of §§ 403.8 and 403.9 in a timely manner, not to exceed the time limitation set forth in the POTW's NPDES permit or July 1, 1983, where no permit deadline exists.

Section 403.7(a)(3)(iv) Compliance With Sludge Requirements

The revised removal credits section, like the 1981 amendments, provides that the POTW must be in compliance with local, State and federal sludge requirements which apply to the sludge management method employed by the POTW. The POTW must remain in compliance after granting removal credits. The following table summarizes the EPA regulations which potentially apply, at present, to sludge disposal.

MAJOR FEDERAL REGULATIONS RELATING TO SEWAGE SLUDGE DISPOSAL

Sludge disposal	Regulation	Date of promulgation authority
1. Landspreading:		
a. Food-chain application.	40 CFR Part 257.	9/79 RCRA/ CWA.
b. Non-food chain application.	40 CFR Part 257.	9/79 RCRA/ CWA.
2. Land disposal:		
a. Solid wastes (nonhazardous).	40 CFR Part 257	9/79 RCRA/ CWA.
b. Hazardous wastes	40 CFR Parts 260 et seq.	5/80 RCRA.
c. PCB's disposal	40 CFR Part 761.	5/79 TSCA.
3. Incineration:		
a. New stationary sources of air emissions.	40 CFR Part 60	10/75 CAA.
b. Hazardous pollutants.	40 CFR Part 61	10/75 CAA.
c. Hazardous wastes	40 CFR Parts 260 et seq.	5/80, 1/81 RCRA.
d. PCB's disposal	40 CFR Part 761.	5/79 TSCA.
4. Ocean dumping	40 CFR Part 220 et seq.	1/77 MPRSA.

Key:
RCRA=Resource Conservation and Recovery Act.
CWA=Clean Water Act.
TSCA=Toxic Substances Control Act.
CAA=Clean Air Act.
MPRSA=Marine Protection, Research, and Sanctuaries Act.

Only rarely will sewage sludge be considered a hazardous waste subject to the requirements of 40 CFR Part 260, et seq. or exhibit a sufficiently high concentration of PCB's to become subject to the requirements of 40 CFR Part 761. EPA anticipates, therefore, that POTWs applying for removal credits will usually only be subject to the landspreading and land application requirements of 40 CFR Part 257 or, if they incinerate their sludge, with the requirements of 40 CFR Parts 60 and 61 or if they dump their sludge in the ocean, with the requirements of 40 CFR Part 220

et seq. (in addition to state and local requirements).

The section contains a new provision designed to accommodate POTWs which are not presently in compliance with sludge requirements applicable to their chosen sludge disposal practice but will be in compliance when the industrial user(s) seeking a removal credit installs the technology needed to comply with their categorical pretreatment standard(s). This provision is intended to benefit industrial users who, unable to get a removal credit now, could get a removal credit after they installed the technology necessary to meet the full pretreatment standard—i.e. possibly too late to be of benefit to them. A POTW which can demonstrate that it will be in compliance with its sludge requirements when the industrial user(s) meets the applicable pretreatment standard (as modified by the removal credit) will be deemed to have satisfied the sludge requirements provision.

Section 403.7(a)(3)(v) Compliance with Toxic Pollutant Limitations

As an additional prerequisite to removal credit authorization, the proposal requires the POTW to be in compliance with any NPDES limitations on toxic pollutants covered by the proposed removal credit and remain in compliance after giving removal credits. This requirement, it should be stressed, applies only to toxic pollutant limitations which are actually contained in the POTW's permit and only to those toxic pollutants which are covered by the removal credits. Violation of a permit limitation for cadmium does not, for instance, disqualify the POTW from granting removal credits for lead.

The requirement can be satisfied in a manner analogous to that provided in § 403.7(a)(3)(iv), if the POTW can demonstrate that it will be in compliance with its toxic pollutant limitations when industrial users are required to comply with their categorical pretreatment standards as modified by the removal credit. An example will illustrate how this demonstration of "future" compliance with the NPDES toxic limitations can be made. Assume that a POTW has an influent concentration of cadmium of 24 μg/1 and an effluent concentration of 12 μg/1 and is therefore presently out of compliance with the 10 μg/1 limitation for cadmium in its permit. Assume further that 75% of the influent concentration of cadmium (18 μg/1) is coming from industrial dischargers presently subject to a categorical pretreatment standard which requires 90 percent removal of the cadmium. In this hypothesized situation, the industrial dischargers would be entitled to a fifty percent credit (since the POTW is actually removing 50 percent of the cadmium in its influent) were it not for the fact the POTW is out of compliance with the cadmium limit in its permit. However, the POTW can show that once the industrial dischargers comply with the categorical pretreatment standard (as modified by the 50 percent removal credit) the industrial dischargers will be removing 40 percent of their contribution of cadmium to the POTW or approximately 7 μg/1 of the influent. This 7 μg/1 reduction in the influent concentration will cause the influent concentration of cadmium to drop to 17 μg/1 and the effluent concentration to 8.5 μg/1. Consequently, the POTW can show that once the industrial dischargers comply with the pretreatment standard as modified by the removal credit, it will be in compliance with its NPDES permit limitation for cadmium.

Section 403.7(a)(3)(i) and 403.7(d) Application for Removal Credit Authorization

The proposal substantially simplifies the requirements governing application for removal credit authorization. POTWs which qualify for national removal rates automatically receive authorization to grant credits upon submission to the Approval Authority of a written certification that they are now in compliance with the secondary treatment limitations, applicable sludge requirements and applicable NPDES limits for toxic pollutants and have developed a local pretreatment program or qualify for the exception to this requirement. They must also certify that the granting of removal credits will not interfere with their chosen method of sludge management or their ability to meet any toxic pollutant limits in their permit. The Agency believes that such POTWs need not be subjected to the full scale approval process because, unlike POTWs which base consistent removal on actual removal achieved or seek interim qualification for the national removal rates, there is little which needs to be reviewed.

POTWs which demonstrate consistent removal through reliance on actual removal or seek interim qualification for the national removal rates must still submit an application and receive approval from the Approval Authority. The provisions governing such applications, however, are considerably more streamlined than their counterparts in the 1981 amendments. Basically all that has to be submitted is a list of the pollutants for which removal credits are sought; data demonstrating actual consistent removal or, alternatively, data demonstrating interim qualification for the national removal rates; the proposed new limits; a certification that the POTW has an approved local pretreatment program or qualifies for the exception to this requirement; a description of the POTW's current method of managing its sludge; and a certification that the POTW is in compliance with applicable sludge requirements and toxic pollutant limits and will not fall out of compliance as a result of granting removal credits. In contrast with the 1981 amendments, which restricted the submission of applications to certain times, the revised section provides that POTWs can submit applications at any time. The Approval Authority is required to review the OPTW's application in accordance with the procedures in § 403.11, which provide it with 90 days from public notice of the application to complete review unless a public hearing is held or the public comment period extended, in which case the Approval Authority may have up to another 90 days.

Section 403.7(e) Continuation and Withdrawal of Authorization

The proposal contains a new provision which states that once a POTW has received authorization to give removal credits for a pollutant regulated in a categorical pretreatment standard, the POTW may automatically extend that removal credit to the same pollutant when regulated in other categorical standards unless granting the removal credit will cause the POTW to violate its sludge requirements or applicable toxic pollutant limitations. This provision makes explicit what was never expressly stated in the January 1981 amendments— namely, that once removal credit authorization is received for a particular pollutant, the POTW may, without re-application, give the same credit for that pollutant when regulated in other categorical standards. The POTW may, of course, elect not to extend the removal credit for a particular pollutant to other categorical standards, but if it so chooses, it must notify EPA.

In other respects, this section is basically the same as its counterpart in the 1981 amendments. As a condition of continued authorization to give removal credits, the POTW must continue to comply with all the requirements of paragraph (a)(3). Compliance with these requirements may be examined by the Approval Authority at any time but, at the very least, upon reissuance of the

NPDES permit. The penalty for failure to comply with the paragraph (a)(3) requirements is withdrawal or modification of the removal credits. Before this can happen, however, the POTW must be notified of the reasons for the withdrawal or modification and given an opportunity to bring itself into compliance.

An exception exists for POTWs which fail to comply with consistent removal requirements of paragraph (b), either by falling out of compliance with the secondary treatment limimtations, failing to achieve compliance with these limitations by the requisite time, or failing to maintain actual consistent removal. Because these consistent removal requirements are considered to be the most essential to the integrity of the removal credits scheme, the section spells out in somewhat greater detail what happens in the event of non-compliance. Basically, the section provides that, in the event of such non-compliance, the POTW must notify the Approval Authority, must return to compliance within six months, and must satisfy the Approval Authority that the problem is not likely to recur. If, at the end of this six month period, the POTW has not returned to compliance or satisfied the Approval Authority that the problem is non-recurring in nature, the Approval Authority must revoke to modify the removal credits. The Approval Authority can, however, extend the time for compliance for up to one year if the POTW demonstrates good faith efforts to return to compliance.

Because POTWs who utilize the national removal rates are already monitoring for compliance with the secondary treatment limitations, the section requires monitoring only of those POTW's who demonstrate consistent removal by reliance on their individual performance under paragraph(b)(2). These POTW's must continue to monitor and report on their removal capabilities no less than once per year.

For POTWs demonstrating consistent removal through reliance upon actual removal, the section further requires that the documented removal be made an enforceable condition of the POTWs NPDES permit.

Miscellaneous

A number of sections of the general pretreatment regulations reference the removal credits section. These references have either been eliminated or changed to conform to the new removal credits section.

V. Economic Benefits of Removal Credits

EPA believes that the revised removal credits scheme will simplify the granting of removal credits. This in turn will benefit industrial users subject to categorical standards. Some measure of the extent to which industrial users can benefit from removal credits can be gained by looking at electroplaters.

Survey data collected from the electroplating industry in 1978 reveals that 19.7% of the captive facilities which would have to install additional treatment to meet the electroplating standards can meet those standards without installing additional treatment if removal credits based on the national removal rates are granted. An additional percentage of captive facilities, which have not yet installed any treatment technology, may be able to install in-plant controls or less expensive treatment systems.

A similar picture is presented for job shops. EPA estimates that 12% of these facilities could meet the electroplating standards without installing any additional treatment if removal credits based on the national removal rates were granted. Other facilities may be able to meet the standards with alternative, less expensive technologies.

The cost savings to the electroplating industry resulting from removal credits based on the national removal rates could be substantial. Based on EPA's 1979 cost projections for the industry, the captive facilities which could avoid any treatment as a result of removal credits could save approximately $223,000,000 in capital costs and $84,000,000 in annual costs. The job shops which could avoid installing additional treatment as a result of removal credits could in turn, save an estimated $22,500,000 in capital costs and $7,500,000 in annual costs. These figures do not, of course, account for facilities which will be able to install less expensive treatment systems because of removal credits.

Regulatory Impact Analysis/Regulatory Flexibility Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed regulation is not major because it simplifies existing requirements and will have the ultimate effect of reducing pollution control costs.

This notice was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, EPA must prepare a Regulatory Flexibility Analysis for all regulations that have a significant impact on a substantial number of small entities. EPA has determined, for the reasons specified above, that this proposal does not have a significant adverse impact on small entities.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* (the Act), the reporting of recordkeeping provisions that are included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under section 3504(h) of the Act. Any final rule will include an explanation of how the reporting or recordkeeping provisions contained therein respond to any comments by OMB and the public.

Lists of Subjects in 40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: September 21, 1982.

Anne M. Gorsuch,

Administrator.

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

For the reasons set out in the preamble, EPA proposes to amend 40 CFR Part 403 as follows:

1. The authority citation for 40 CFR Part 403 is as follows:

Authority: Sec. 54(c)(2) of the Clean Water Act of 1977 (Pub. L. 95–217), sections 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)–(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405, and 501(a) of the Federal Water Pollution Control Act (Pub. L. 92–500), as amended by the Clean Water Act of 1977.

2. 40 CFR 403.7 is revised to read as follows:

§ 403.7 Removal credits.

(a) *Introduction.*—(1) *Definitions.* For the purpose of this section:

(i) "Removal" means a reduction in the amount of a pollutant in the POTW's effluent or alteration of the nature of a pollutant during treatment at the POTW. The reduction or alteration can be obtained by physical, chemical or biological means and may be the result of specifically designed POTW capabilities or may be incidental to the operation of the treatment system. Removal as used in this subpart shall

not mean dilution of a pollutant in the POTW.

(ii) "Sludge Requirements" shall mean the following statutory provisions and regulations or permits issued thereunder [or more stringent State or local regulations): section 405 of the Clean Water Act; the Solid Waste Disposal Act [SWDA] (including Title II, more commonly referred to as the Resource Conservation Recovery Act (RCRA) and State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of SWDA); the Clean Air Act; and the Toxic Substances Control Act. (iii) "Toxic Pollutant" shall mean any of the designated pollutants on the list developed pursuant to section 307(a) of the Act and found at 40 CFR 401.15.

(2) *General.* Any POTW receiving wastes from an Industrial User to which a categorical Pretreatment Standard applies may, at its discretion and subject to the conditions of this section, revise the discharge limits specified in the categorical Pretreatment Standard to reflect removal of Toxic or other regulated pollutants by the POTW. In keeping with this discretion, the POTW may award less of a removal credit than it is capable of awarding under this section. Removal credits may be given for indicator or surrogate pollutants regulated in a categorical Pretreatment Standard if the categorical Pretreatment Standard so specifies.

(3) *Conditions for Authorization to give removal credits.* A POTW is authorized to give removal credits only if the following conditions are met:

(i) *Application or Certification.* The POTW applies for, and receives, authorization from the Approval Authority to give a removal credit in accordance with the requirements and procedures specified in paragraph (d) of this section; *Provided, however,* That a POTW which is in compliance with the secondary treatment limitations identified in paragraph (b)(1) of this section and elects to demonstrate consistent removal through use of the national removal rates available under that paragraph, shall automatically receive authorization upon submission to the Approval Authority of a written certification that it is in compliance with the secondary treatment limitations, sludge requirements, and NPDES permit limitations for toxic pollutants identified in paragraph (a)(3)(iv) and (v) of this section, has developed a local pretreatment program or qualifies for the exception to this requirement, and that the granting of removal credits will not interfere with its chosen method of sludge management or cause it to violate its sludge requirements or toxic pollutant limits.

(ii) *Consistent removal determination.* The POTW demonstrates and continues to achieve consistent removal of the pollutant in accordance with paragraph (b) of this section.

(iii) *POTW local pretreatment program.* The POTW has an approved pretreatment program in accordance with and to the extent required by Part 403; provided, however, a POTW which does not have an approved pretreatment program may, pending approval of or development of such a program, conditionally give credits as provided in paragraph (c) of this section.

(iv) *Sludge requirements.* The POTW is in compliance with the local, state and federal Sludge Requirements which apply to the sludge management method chosen by the POTW and will remain in compliance after giving removal credits to its Industrial Users. Alternatively, the POTW can demonstrate to the Approval Authority that even though it is not presently in compliance with applicable Sludge Requirements, it will be in compliance when the Industrial User(s) to whom the removal credit would apply is required to meet its categorical pretreatment standard as modified by the removal credit. If granting removal credits forces a POTW to incur greater sludge management costs than would be incurred in the absence of granting removal credits, the additional sludge management costs will not be eligible for EPA grant assistance.

(v) *NPDES permit limitations.* The POTW is in compliance with any limitations in its NPDES permit for Toxic Pollutants covered by the proposed removal credits and will remain in compliance after giving removal credits to its Industrial Users. Alternatively, the POTW can demonstrate to the Approval Authority that even though it is not presently in compliance with applicable Toxic Pollutant limitations in its NPDES permit, it will be in compliance when the Industrial User(s) to whom the removal credit would apply is required to meet its categorical pretreatment standard, as modified by the removal credit provision.

(4) *Calculation of revised discharge limits.* Revised discharge limits for a specific pollutant shall be derived by use of the following formula

$$y = \frac{x}{1-r}$$

where:

x = pollutant discharge limit specified in the applicable categorical Pretreatment Standard

r = POTW's Consistent Removal rate for that pollutant as established under paragraph (b) of this section (percentage removal expressed as a proportion, i.e., a number between 0 and 1)

y = revised discharge limit for the specified pollutant (expressed in same units as x).

(b) *Consistent Removal.* A POTW may demonstrate consistent removal by meeting the requirements of paragraph (b)(1), (b)(2) or (b)(3) below.

(1) *National Removal Rates.* (i) A POTW that is in compliance with the secondary treatment limitations for BOD and suspended solids set forth in 40 CFR 133.102 (a) and (b) for the six months preceeding application for removal credits may use the following removal rates, known as national removal rates, to demonstrate consistent removal. "Compliance" for the purposes of this section shall mean that the POTW does not exceed the maximum 30 day average limitations for BOD or suspended solids set forth in 40 CFR 133.102 (a) and (b) by more than 25% in any one month. These rates ("r" in the equation at paragraph (a)(4) of this section) are expressed in terms of the percent reduction of the influent pollutant concentration. As a condition of continuing to use the national removal rates, the POTW must maintain compliance with the secondary treatment limitations.

Toxic pollutant	National removal rate
Chromium	65
Copper	58
Nickel	19
Zinc	65
Cadmium	38
Lead	48
Silver	66
Total regulated metals (Cr+Cu+Ni+Zn)	62
Cyanide	52

(ii) *Interim Qualifications for National Removal Rates.* (A) A POTW not achieving the requirements of 40 CFR 133.102(a) and (b) for BOD and suspended solids may qualify for use of the national removal rates specified above if it can show that it will be in compliance within 1 year after it applies for removal credit authorization. Alternatively, the Approval Authority may, at its discretion, allow such a POTW to qualify for the national removal rates if the POTW is subject to a compliance schedule which requires compliance with the requirements of 40 CFR 133.102(a) and (b) no later than the date the Industrial User(s) to whom the removal credits apply is required to

comply with its categorical Pretreatment Standard(s), as modified by the removal credit.

(2) *Actual Removal.* A POTW which does not qualify for or choose to use the national removal rates may demonstrate consistent removal through reliance upon actual removal. In order to demonstrate actual consistent removal, the POTW shall, for each pollutent with respect to which removal credit authorization is sought, collect influent and effluent data and calculate consistent removal in accordance with the following requirements. The POTW must continue to maintain this consistent removal as a condition of retaining removal credit authorization.

(i) *Number of samples.* At least twelve samples of influent and effluent shall be taken at approximately equal intervals throughout one full year. Upon concurrence of the Approval Authority, a POTW may utilize an historical data base either in lieu of or as a supplement to these twelve samples. In order to be approved, the historical data base must be representative of the yearly and seasonal conditions to which the POTW is subject and be representative of the POTW's performance for at least one year. As an alternative to the above, a POTW, upon concurrence of the Approval Authority, may utilize an alternative sampling design, as long as the alternative design provides for samples to be taken at times which are representative of the POTW's normal operating conditions and the different seasonal conditions to which the POTW is subject.

(ii) *Method of Sampling.* The POTW must use the composite sampling method unless the grab sampling method is more appropriate. A description of these methods and suggestions on when each method should be used are included in Appendix A as guidance.

(iii) *Method of Analysis for Pollutants.* The POTW shall analyze the samples for pollutants in accordance with the analytical techniques prescribed in 40 CFR Part 136. If 40 CFR Part 136 does not contain analytical techniques for the pollutant in question, or if the Approval Authority determines that Part 136 analytical techniques are inappropriate, the analysis shall be performed using validated analytical methods or any other applicable analytical procedures approved by the Approval Authority, including procedures suggested by the POTW.

(iv) *Calculation of Consistent Removal.* The consistent removal for a specific pollutant ("r" in the equation at paragraph (a)(4) of this section) shall be the difference between the average concentrations of the pollutant in the influent of the POTW, denoted by I, and the average concentrations of the pollutant in the effluent of the POTW, denoted by E, divided by the average concentrations of the pollutant in the influent, denoted by I, as follows:

$$r = \frac{I-E}{I}$$

The average concentrations of the pollutant in the influent and effluent shall be calculated by taking the arithmetic average of all influent and effluent data, respectively. In calculating consistent removal, all sample data must be used, unless the pollutant is only measurable in some of the influent and effluent samples. If the pollutant is only measurable in some of the influent and effluent samples, the following exceptions apply:

(A) *Definitions.* For purposes of these paragraphs, "measurable" refers to the ability of the analytical method to quantify as well as identify the presence of the pollutant in question. "Limit of detectability" refers to the lowest limit at which the analytical method can quantify the pollutant in question.

(B) *Pollutant not measurable in any influent samples.* If a pollutant is not measurable in any of the influent samples, the sample data may not be used to calculate consistent removal for that pollutant. In such event, the POTW may utilize historical data as provided in paragraph (b)(2)(i) of this section to calculate consistent removal. Alternatively, upon the concurrence of the Approval Authority, the POTW may utilize data from treatability studies or demonstrated removal at other treatment facilities where the quality and quantity of the influent are similar.

(C) *Pollutant measurable in some, but not all, influent and effluent samples.* If a pollutant is measurable in some, but not all, influent and effluent samples (including the situation where it is not measurable in any effluent samples) the sample data may be used at the discretion of the POTW and upon approval by the Approval Authority in calculating consistent removal. If such data is used to calculate consistent removal, influent and effluent observations below the limit of detectability should be assigned a value equal to the limit of detectability.

(3) *Pollutants Not Currently Being Discharged.* For pollutants which are not being discharged currently (new or modified facilities, or production changes) the POTW may apply for authorization to give removal credits prior to the initial discharge of the pollutant. Consistent removal shall be based provisionally on data from treatability studies, demonstrated removal at other treatment facilities where the quality and quantity of influent are similiar, or on the national removal rates if the requirements of (b)(1) of this section are met. Within 18 months after the commencement of discharge of the pollutants in question, consistent removal must be demonstrated pursuant to the requirements of this section, unless consistent removal has been based on the national removal rates.

(c) *Exception to POTW Pretreatment Program Requirement.* A POTW required to develop a local pretreatment program by § 403.8 may conditionally give removal credits pending approval of or development of such a program in accordance with the following terms and conditions:

(1) All Industrial Users who are currently subject to a categorical Pretreatment Standard and who wish conditionally to receive a removal credit must submit to the POTW the information required in § 403.12(b)(1)–(7), pertaining to the categorical Pretreatment Standard as modified by the removal credit. The Industrial User shall indicate what additional technology, if any, will be needed to comply with the categorical Pretreatment Standard as modified by the removal credit;

(2) The POTW must submit to the Approval Authority an application for pretreatment program approval meeting the requirements of §§ 403.8 and 403.9 in a timely manner, not to exceed the time limitation set forth in a compliance schedule for development of a pretreatment program included in the POTW's NPDES permit or July 1, 1983, where no permit deadline exists.

(d) POTW application for authorization to give removal credits and Approval Authority Review.—(1) *Who must apply.* Any POTW that wants to give a removal credit must apply for authorization from the Approval Authority except those POTWs which qualify for national removal rates and are permitted to submit a certification under paragraph (a)(3)(i) of this section.

(2) *To whom application made.* An application for authorization to give removal credits (or modify existing ones) shall be submitted by the POTW to the Approval Authority.

(3) *When to apply.* A POTW may apply for authorization to give or modify removal credits at any time.

(4) *Contents of the Application.* An application for authorization to give removal credits must be supported by the following information:

(i) *List of pollutants.* A list of pollutants for which removal credits are proposed.

(ii) *Consistent Removal Data.* If paragraph (b)(2) of this section is the basis for demonstration of Consistent Removal, the data required by that section. If paragraph (b)(1)(ii) or (b)(3) of this section is the basis for demonstration of Consistent Removal, data demonstrating that the conditions for use of those sections are met.

(iii) *Calculation of revised discharge limits.* Proposed revised discharge limits for each affected subcategory of Industrial Users calculated in accordance with paragraph of (a)(4) of this section.

(iv) *Local Pretreatment Program Certification.* A certification that the POTW has an approved local pretreatment program or qualifies for the exception to this requirement found at paragraph (c) of this section.

(v) *Sludge Management Certification.* A specific description of the POTW's current methods of using or disposing of its sludge and a certification that the POTW is in compliance with the sludge requirements identified in paragraph (a)(3)(iv) of this section and that granting removal credits will not interfere with the POTW's chosen sludge disposal option or cause the POTW to fall out of compliance with the sludge requirements.

(iv) *NPDES Permit Limit Certification.* A certification that the POTW is in compliance with the NPDES permit limits for toxic pollutants identified in paragraph (a)(3)(v) of this section and that granting removal credits will not cause the POTW to fall out of compliance with these limits.

(5) *Approval Authority Review.* The Approval Authority shall review the POTW's application for authorization to give or modify removal credits in accordance with the procedures of § 403.11 and shall, in no event (as specified in § 403.11) have more than 180 days from public notice of an application to complete review.

(6) *EPA review of state removal credit approvals.* Where the NPDES state has an approved pretreatment program, the Regional Administrator may agree in the Memorandum of Agreement under 40 CFR 123.6 to waive the right to review and object to submissions for authority to grant removal credits. Such an agreement shall not restrict the Regional Administrator's right to comment upon or object to permits issued to POTW's except to the extent 40 CFR 123.(6)(e) allows such restriction.

(7) Nothing in these regulations precludes an Industrial User or other interested party from assisting the POTW in preparing and presenting the information necessary to apply for authorization to give removal credits.

(e) *Continuation and withdrawal of authorization*—(1) *Effect of authorization.* Once a POTW has received authorization to grant removal credits for a particular pollutant regulated in a categorical Pretreatment Standard it may automatically extend that removal credit to the same pollutant when it is regulated in other categorical standards, unless granting the removal credit will cause the POTW to violate the sludge requirements identified in (a)(3)(iv) of this section or the NPDES permit limits for toxic pollutants identified in (a)(3)(v). If a POTW elects to limit the applicability of a removal credit for a particular pollutant to certain categorical Pretreatment Standards, it must notify the Approval Authority and identify the industrial subcategories to which the removal credit applies.

(2) *Inclusion in POTW permit.* Once authority to give removal credits is granted to POTWs who demonstrate consistent removal through reliance upon actual removal as provided in paragraph (b)(2) of this section, the consistent removal documented by the POTW shall be included in POTW's NPDES Permit upon the earliest reissuance or modification (at or following Program approval) and shall become an enforceable requirement of the POTW's NPDES permit.

(3) *Compliance monitoring.* Following authorization to give removal credits, POTW's who demonstrate consistent removal by meeting the requirements of paragraph (b)(2) of this section shall continue to monitor and report on (at such intervals as may be specified by the Approval Authority but in no case less than once per year) the POTW's removal capabilities.

(4) *Modification or withdrawal of removal credits.* In order for revised categorical Pretreatment Standards to continue in effect, the POTW must meet the conditions specified in paragraphs (a)–(c) of this section. Compliance with these conditions may be examined by the Approval Authority whenever it elects and must, at the very least, be examined whenever the POTW's NPDES Permit is reissued. Except in the case of non-compliance with the conditions of paragraph (b) of this section (which is discussed below), if the Approval Authority determines, on the basis of compliance monitoring reports or other information available to it that the conditions specified in paragraphs (a)–(c) of this section are not being met, it must notify the POTW. If appropriate corrective action is not taken within a reasonable time, the Approval Authority shall either withdraw the removal credits or require modifications of those credits; provided however, such withdrawal or modification may only take place after the Approval Authority has provided the POTW and all Industrial Users to whom removal credits have been granted, the reasons for such withdrawal or modification.

If the POTW falls out of compliance with the conditions of paragraph (b) (by failing to comply with the secondary treatment limitations under (b)(l)(i), failing to achieve the deadline for compliance with the secondary treatment limitations under (b)(l)(ii), or failing to maintain actual consistent removal under (b)(2)) the POTW must immediately notify the Approval Authority, return to compliance within six months, and satisfy the Approval Authority that the problem is non-recurring in nature, If, at the end of the six months, the POTW is still not in compliance or has not satisfied the Approval Authority that the problem is non-recurring in nature, the Approval Authority must either withdraw the credits or require modifications of those credits, as appropriate; provided however, upon a demonstration of good faith efforts by the POTW to return to compliance, the Approval Authority may extend the deadline of compliance to one year. The Approval Authority may impose conditions on the POTW to ensure the return to compliance.

In the event removal credits are either withdrawn or modified, all affected Industrial Users must be notified by the POTW. These Industrial Users shall be subject to the modified removal credits or the discharge limits prescribed in the applicable categorical Pretreatment Standards, as appropriate, and shall achieve compliance with such limits within 18 months from the date of withdrawal or modification.

(f) *Removal credits in State-run pretreatment programs under § 403.10(e).* Where an NPDES State with an approved pretreatment program elects to implement a local pretreatment program in lieu of requiring the POTW to develop such a program (as provided in § 403,10(e)), the POTW will not be required to develop a pretreatment program as a precondition to obtaining authorization to give removal credits. The POTW will, however, be required to comply with the other conditions of paragraph (a)(3) of this section.

Appendix A—Sampling Procedures

I. Composite Method

A. It is recommended that influent and effluent operational data be obtained through 24-hour flow-proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots should be composited. Discrete sampling may be flow-proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites should be flow-proportional to either the stream flow at the time of collection of the influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.

B. Effluent sample collection need not be delayed to compensate for hydraulic detention unless the POTW elects to include detention time compensation or unless the Approval Authority requires detention time compensation. The Approval Authority may require that each effluent sample be taken approximately one detention time later than the corresponding influent sample when failure to do so would result in an unrepresentative portrayal of actual POTW operation. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based on the average of the daily flows during the same month of the previous year.

II. Grab Method

If composite sampling is not an appropriate technique, grab samples should be taken to obtain influent and effluent operational data. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes. The collection of influent grab samples should preceed the collection of effluent samples by approximately one detention period except that where the detention period is greater than 24 hours such staggering of the sample collection may not be necessary or appropriate. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based upon the average of the daily flows during the same month of the previous year. Grab sampling should be employed where the pollutants being evaluated are those, such as cyanide and phenol, which may not be held for an extended period because of biological, chemical or physical interaction which take place after sample collection and affect the results.

3. 40 CFR 403.6(a)(2)(ii) is revised to read as follows:

§ 403.6 National Pretreatment Standards: Categorical Standards.

* * * * *

(2) * * *

(i) * * *

(ii) Citing evidence and reasons why a particular subcategory is applicable and why others are not applicable. Each such statement shall contain an oath stating that the facts contained therein are true on the basis of the applicant's personal knowledge or to the best of his information and belief.

4. 40 CFR 403.8(a) is revised to read as follows:

§ 403.8 POTW pretreatment programs: development by POTW.

(a) POTW's required to develop a pretreatment program. Any POTW (or combination of POTW's operated by the same authority) with a total design flow greater than 5 million gallons per day (mgd) and receiving from Industrial Users pollutants which Pass Through or Interfere with the operation of the POTW or are otherwise subject to Pretreatment Standards will be required to establish a POTW Pretreatment Program unless the NPDES State exercises its option to assume local responsibilities as provided for in § 403.10(e). The Regional Administrator or Director may require that a POTW with a design flow of 5 mgd or less develop a POTW Pretreatment Program if he or she finds that the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge, or other circumstances warrant in order to prevent Interference with the POTW or Pass Through.

* * * * *

5. 40 CFR 403.11 is revised to read as follows:

§ 403.11 Approval Procedures for POTW Pretreatment Programs and POTW Granting of Removal Credits.

The following procedures shall be adopted in approving or denying requests for approval of POTW Pretreatment Programs and applications for revomal credit authorization:

(a) *Deadline for review of submission.* The Approval Authority shall have 90 days from the date of public notice of any Submission complying with the requirements of § 403.9(b) and, where removal credit authorization is sought, with §§ 403.7(d) and 403.9(d), to review the Submission. The Approval Authority shall review the Submission to determine compliance with the requirements of § 403.8 (b) and (f), and, where removal credit authorization is sought, with § 403.7. The Approval Authority may have up to an additional 90 days to complete the evaluation of the Submission if the public comment period provided for in paragraph (b)(1)(ii) of this section is extended beyond 30 days or if a public hearing is held as provided for in paragraph (b)(2) of this section. In no event, however, shall the time for evaluation of the Submission exceed a total of 180 days from the date of public notice of a Submission meeting the requirements of § 403.9(b) and, in the case of a removal credit application, §§ 403.7(d) and 403.9(d).

(b) *Public notice and opportunity for hearing.* Upon receipt of a Submission the Approval Authority shall commence its review. Within 5 days after making a determination that a Submission meets the requirements of § 403.9(b), and, where removal credit authorization is sought, §§ 403.7(d) and 403.9(d), the Approval Authority shall:

* * * * *

(3) [Removed]

* * * * *

§ 403.12 [Amended]

6. 40 CFR 403.12 is amended by removing paragraphs (i) and (j) and renumbering the remaining paragraphs accordingly.

[FR Doc.82 26588 Filed 9-27-82 8:45 am]
BILLING CODE 6560-50-M

federal register

Tuesday
September 28, 1982

Part VII

Environmental Protection Agency

Approval and Promulgation of Implementation Plans; Revision of the Virginia State Plan

Digest

Part VII

Environmental Protection Agency

Approval and Promulgation of Implementation Plans; Revision of the Virginia State Plan

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. AW038VA; A-3-FRL 2204-4]

Approval and Promulgation of Implementation Plans Approval of Revision of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a revision to the Virginia State Implementation Plan of amendments to the Virginia Air Pollution Control Regulations submitted by the Commonwealth of Virginia. This approval is based upon the Commonwealth's request to amend its regulation concerning open burning. This revision allows open burning of landclearing debris under certain conditions at local landfills.

DATES: This action will be effective on November 29, 1982 unless notice is received by October 28, 1982, that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Mr. James E. Sydnor of the EPA, Region III address shown below. Copies of the materials submitted by the Commonwealth may be examined during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs & Energy Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106. Attn.: Patricia Sheridan (3AW11)

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, VA 23219. Attn.: Mr. John M. Daniel, Jr.

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, SW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Lillie R. Ellerbe (3AW13) 215/597-8170 at the EPA, Region III address indicated above.

SUPPLEMENTARY INFORMATION: On May 26, 1982, the Commonwealth of Virginia (Commonwealth) submitted to the Environmental Protection Agency (EPA) a revision to its State Implementation Plan (SIP). This revision consists of amendments to Virginia's existing Regulations for the Control and Abatement of Air Pollution, Part IV, Emission Standards for Open Burning (RULE EX-1), Section 4.11.

The Commonwealth has provided proof that, after adequate public notice on July 6, 1981, a public hearing was held on September 8, 1981, in Richmond, Virginia with regard to the revision. Notices were published and hearings were also held in each of Virginia's six other Air Quality Control Regions: Abingdon, Roanoke, Lynchburg, Fredericksburg, Virginia Beach, and Annandale. There was no opposition to the revision at the public hearings.

The amendment to Section 4.11 will add certain conditions under which open burning may be conducted at local landfills, and applies to existing sources except those in Air Quality Control Region 7 of Virginia. Open burning under the new provisions of Section 4.11 will be allowed provided that the source demonstrates compliance with all provisions in Section 4.11 as well as those of Section 4.10 in that the open burning must be attended at all times and all reasonable efforts must be employed to minimize the amount of material that is burned.

Provisions of the amendment will also allow open burning for disposal of refuse on the site of a local sanitary landfill, or another area operated under the authority of the locality, provided that a permit has been obtained from the Executive Director of the Virginia State Air Pollution Control Board.

No materials may be burned in violation of the State's Department of Health rules and regulations. Compliance with the visible emissions standard of 20% and any other appropriate air pollution standard will be determined by testing in accordance with existing rules and regulations.

EPA has reviewed the information submitted by the Commonwealth and the Administrator is today approving this SIP revision. The public is 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 from today that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Conclusion: The Administrator's decision to approve the proposed revisions was based on a determination that the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

As a result of EPA's decision to approve this revision to the Virginia Implementation Plan, 40 CFR 52.2420 (Identification of Plan) is being revised as shown below.

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

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

List of Subjects in 40 CFR Part 52

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

(42 U.S.C. 7401-7642)

Date: September 21, 1982.

Anne M. Gorsuch,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS.

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

In § 52.2420, paragraph (c)(71) is added to read:

§ 52.2420 Identification of plan.

* * * * *

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

(71) Amendments to Part IV, Emission Standards for Open Burning (RULE EX-1), Section 4.11 to the Virginia Regulations for the Control and Abatement of Air Pollution, submitted on May 26, 1982 by the Commonwealth of Virginia.

[FR Doc. 82-26585 Filed 9-27-82; 8:45 am]

BILLING CODE 6560-50-M

Reader Aids

Federal Register

Vol. 47, No. 188

Tuesday, September 28, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
General information, index, and finding aids	523-3517
Incorporation by reference	523-5227
Printing schedules and pricing information	523-4534
	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

38493-38672.....1
38673-38860.....2
38861-39126.....3
39127-39472.....7
39473-39654.....8
39655-39786.....9
39787-40140.....10
40141-40396.....13
40397-40522.....14
40523-40774.....15
40775-41094.....16
41095-41328.....17
41329-41508.....20
41509-41720.....21
41721-41940.....22
41941-42096.....23
42097-42312.....24
42313-42540.....27
42541-42712.....28

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

4960.....39787
4961.....39789
4962.....39791
4963.....39793
4964.....40523
4965.....40525
4966.....40527
4967.....40529
4968.....40775
4969.....40777
4970.....40779
4971.....40781
4972.....41329
4973.....41941
4974.....42313
4975.....42315
4976.....42543
4977.....42545
4978.....42547

Executive Orders:

October 10, 1906 (Revoked by PLO 6332).....39683
April 19, 1912 (Amended by PLO 6315).....38891
April 29, 1912 (Revoked in part by PLO 6321).....39492
June 27, 1912 (Revoked in part by PLO 6327).....39495
4231 (Revoked by PLO 6325).....39494
4287 (Revoked by PLO 6319).....39492
5581 (Revoked by PLO 6336).....39826
5623 (Revoked by PLO 6320).....39492
6696 (Revoked by PLO 6320).....39492
6762 (Revoked by PLO 6333).....39824
6817 (Revoked by PLO 6318).....39491
7705 (Revoked by PLO 6316).....39490
12148 (Amended by 12381).....39795
12381.....39795
12382.....40531
11476 (Amended by EO 12383).....42317
12383.....42317

Administrative Orders:

Presidential Determinations:

No. 82-16 of May 27, 1982.....42541
No. 82-19 of August 30, 1982.....39655
No. 82-20 of September 7, 1982.....41723

Memorandums:

September 8, 1982.....39797
September 20, 1982.....41721

5 CFR

Ch. XIV.....40783
530.....42549

Proposed Rules:

315.....42110
610.....41136
620.....41136
630.....41136
1320.....39515

7 CFR

2.....51725
52.....40533
54.....40141
272.....40397
273.....40397
277.....41095
301.....38861, 41096, 41509
901.....41096
908.....42549
910.....38862, 39799, 42097, 42549
924.....42549
926.....42549
929.....42549
931.....42549
932.....39657, 42549
946.....38493
967.....38494
981.....40783
982.....41510
985.....41331
1004.....38495
1076.....38863
1139.....38496
1427.....41725
1701.....38864
1823.....41332
1901.....39127, 41332
1904.....40398
1910.....41333
1944.....40398, 41333
1951.....41334
2700.....39128
2710.....39128

Proposed Rules:

1b.....42364
1c.....42364
29.....39688
53.....41934
54.....41934
60.....42365
68.....41383
180.....40443
272.....40443

273.....40443
278.....38905, 39832
621.....39833
800.....41385, 42576
910.....39836
932.....39530
989.....40447, 42111
1079.....40181, 40182
1207.....41578
1430.....42112
1701.....42114
1945.....39532, 41978

8 CFR

238.....38864
242.....40786
332c.....38673

9 CFR

92.....38673
94.....38497, 41726
309.....41335
381.....41335

Proposed Rules:

74.....38704
113.....42366
201.....42114
203.....42114
318.....41397
319.....41397

10 CFR

Ch. I.....41336
1.....41336
2.....40535
10.....38675
11.....38675
20.....41336
21.....41336
25.....38675
35.....40149
50.....40536
73.....41336
95.....38675
204.....40786
460.....38498
461.....38500
660.....40786
661.....40786
701.....40786
702.....40786

Proposed Rules:

50.....39836
810.....41320

12 CFR

201.....39129
217.....39657
226.....41338
309.....39130
329.....39473
545.....38865
561.....39661
563.....39661
564.....41099
618.....38865
742.....41100

Proposed Rules:

226.....38548
337.....42121
541.....39692
543.....39836
545.....39836, 42366
546.....39836
552.....39836
561.....39692
563.....39692, 39836
584.....39846

13 CFR

101.....41101
123.....42321

14 CFR

39.....38683, 39133–39136 39664, 40150, 40787–40789, 41351, 41943 42321, 42323
43.....41076
71.....38684–38687, 39137–39141, 39669–39673, 40151–40154, 40790, 41352, 41944–41948, 42323
73.....39142–39145, 40154, 40155, 41949, 41950
75.....38687, 41948
91.....41076, 42324
97.....39145, 41352
103.....38770
231.....40537
250.....39474
298.....40538
302.....42551
324.....39474
375.....39474
1201.....38867

Proposed Rules:

Ch. I.....38705, 40808, 42370
39.....39189, 40182, 40808–40811, 41399, 42370–42373
71.....38706, 39190, 41400 41984–41986
120.....41486
121.....41486
135.....41486
201.....41759
253.....40185
290.....40633
299.....40633
321.....40812
399.....42122

15 CFR

369.....38501
371.....40538
373.....40538
376.....40538
379.....40538
385.....40538
386.....40538
399.....40538, 41511
929.....39474

Proposed Rules:

922.....39191

16 CFR

13.....42551, 42552
305.....39674
453.....42260
460.....40156
803.....40159, 41512
1000.....42552
1700.....40407

Proposed Rules:

13.....39695

17 CFR

1.....41513
200.....38505, 41950
211.....38868, 41727
229.....39799
230.....39799, 41950
231.....39809
239.....39986, 41950
240.....41950
249.....39986
251.....39810
270.....42553
274.....39986
279.....39986

Proposed Rules:

270.....42374, 42578

18 CFR

4.....38506
141.....38869
157.....38871
271.....38877–38881, 41734, 42562
274.....38882
282.....38513, 42562
357.....42327

Proposed Rules:

2.....40634
32.....39851
33.....39851
34.....39851
35.....39851
45.....39851
152.....40634
154.....40634
156.....40634
157.....40634
271.....38906, 38907, 39862–39865, 40814, 41987, 42562
282.....42562
284.....40634
292.....39851
375.....39851
381.....39851, 40634

19 CFR

10.....40160, 41518
18.....39478
101.....40163
113.....40163

Proposed Rules:

134.....39866

20 CFR

404.....42097

Proposed Rules:

404.....42587

21 CFR

Ch. II.....41735
5.....42098
14.....38883
74.....38883, 42563, 42566
81.....38883, 42563, 42566
82.....38883, 42566
131.....41519
135.....41525
145.....41526, 41529
175.....41102
176.....41102, 41103
177.....38884, 41530
178.....40409, 41104
193.....39478
203.....39147
310.....41716
314.....39155
433.....39155
442.....42099
510.....39155, 40409, 42100
520.....39811, 39812, 41105
540.....39813
548.....42100
558.....39813, 39814, 41106, 42100
561.....39479
573.....41106
606.....39816
610.....39816, 41106
640.....39816
660.....41106
809.....39155, 41106
868.....40410, 41107
880.....39816

Proposed Rules:

145.....41579
148.....38909, 38912
158.....38915
167.....42123
168.....41580
182.....38917, 40448, 41137
184.....38917, 39199, 40448 41137, 41139
186.....39199, 41137
330.....39470, 41580
333.....38917, 39406, 39464
347.....39436
348.....39412
357.....41581
358.....39906, 39102, 39108, 39120
876.....41139
888.....42588
892.....41139
1306.....41140
1308.....41401

22 CFR

Ch. V.....40790

Proposed Rules:

11.....38548

23 CFR

625.....40791
1205.....40791

24 CFR

201.....39480
203.....40410, 42335,
221.....42335
804.....39480
805.....39480
841.....39480
882.....41735

25 CFR

23.....39978
168.....39816

Proposed Rules:

271.....40326
272.....40338
273.....40340
274.....40348
275.....40352
276.....40353
277.....40356

26 CFR

1.....38514, 39674, 42335, 42341
3.....39674
5c.....38688

6a.....41532
22.....41735
30.....38515
31.....38515
48.....42342
601.....39675

Proposed Rules:
1.....38918, 41141, 41581
31.....38552

27 CFR

9.....38516, 38519
19.....38521
240.....38521
245.....38521
270.....38521
285.....38521

Proposed Rules:
4.....40451
5.....38553
9.....38553
240.....41402

28 CFR

2.....40410
60.....39161
541.....39676

29 CFR

102.....40770, 42569
1601.....38885
1910.....39161, 40410
1952.....39164, 42103, 42105
2619.....40541

Proposed Rules:
220.....411304
2646.....42588

30 CFR

221.....42569
231.....42569
840.....39678
842.....39678
843.....39678
845.....39678
915.....39482
934.....42347
935.....38886
944.....42348
946.....41556
950.....42351
948.....39821

Proposed Rules:
700.....39201
701.....39201
715.....39201
717.....39201
736.....39201
760.....39201
762.....39201
769.....39201
770.....39201
771.....39201
772.....39201
773.....39201
775.....39201
776.....39201
778.....39201
779.....39201
780.....39201
782.....39201
783.....39201
784.....39201
785.....39201
786.....39201
787.....39201
788.....39201
815.....39201
816.....39201
817.....39201
818.....39201
819.....39201
822.....39201
823.....39201
824.....39201
826.....39201
827.....39201
843.....39201
850.....39201
886.....38556, 42378
901.....42378
913.....38555, 41581
917.....39536
931.....38706
934.....39868, 42379
936.....38556
941.....41142
944.....41582
946.....39696, 41142
947.....41584
950.....42380

31 CFR

500 (See Memorandum of September 8, 1982).....39797
505 (See Memorandum of September 8, 1982).....39797
515 (See Memorandum of September 8, 1982).....39797
520 (See Memorandum of September 8, 1982).....39797

32 CFR

1-39.....40542
199.....42570
723.....41558
724.....39166
726.....41559
727.....41560
851.....41107
865.....40411
888e.....42107
890.....38524
989.....38524

Proposed Rules
199.....40644, 41761
292a.....38921

33 CFR

110.....42352
147.....39678
165.....41957
320.....38530
321.....38530
322.....38530
323.....38530
324.....38530
325.....38530
326.....38530
327.....38530
328.....38530
329.....38530
330.....38530

Proposed Rules:
52.....41404
110.....42381
115.....41988
161.....40185
175.....41992
183.....41993

34 CFR

674.....41958

Proposed Rules
300.....39652, 40815

37 CFR

1.....40134, 41272
2.....38693, 41272
3.....40134
4.....40134
203.....39483
204.....39483

38 CFR

21.....42107

Proposed Rules:
21.....40650
36.....41997

39 CFR

10.....40624
310.....42354
320.....42354
601.....42108

40 CFR

52.....38531, 38532, 38886, 38887, 39167, 39484, 41928, 41958, 42572, 42573, 42711
61.....39168, 39485
65.....39680
81.....38888, 38890, 39822, 40165, 41107
122.....41562
123.....41561
162.....41736
180.....38533, 38534, 39488-39490, 40166, 41737
244.....41959
245.....41959
246.....41959
260.....41562
403.....42688
410.....38810
420.....41738
716.....38780
763.....38535

Proposed Rules:
35.....42591
52.....39202, 39203, 39696, 40185, 41584, 41598, 41768, 41930, 42000, 42124, 42382
55.....38557
60.....38832, 39204, 39205, 41143
65.....38557
81.....38922, 41143, 42001, 42125
123.....38922, 41599
162.....39538, 40659
171.....40667
180.....39541, 39542, 41769, 41770
228.....41402
230.....42595
403.....42698
413.....41403
433.....41403
469.....41403
716.....38800

41 CFR

Ch. I.....41354
Ch. 19.....40790
Ch. 101.....41959, 42355
1-1.....41355
1-6.....41355
1-16.....41355
1-18.....41355
5-10.....42357
101-20.....41360
101-26.....41360, 41362
109-35.....39823

42 CFR

405.....40796, 42676
421.....38535
433.....41563

43 CFR

4.....42574
20.....42359
1820.....40412
2800.....38804, 38806
2820.....42574
4100.....41702
5440.....38695
5450.....38695
5460.....38695
9260.....41702

Proposed Rules:
2200.....42086
2740.....42684
2910.....42684
3100.....38923
3110.....38923
3120.....38923
3130.....38923

Public Land Orders:
4873 (Revoked by PLO 6323).....39493
5150 (Amended by PLO 6329).....39495
5173 (Amended by PLO 6329).....39495
5178 (Amended by PLO 6329).....39495
5179 (Amended by PLO 6329).....39495
5180 (Amended by PLO 6329).....39495
5184 (Amended by PLO 6329).....39495
6229 (Corrected by PLO 6326).....39495
6315.....38891
6316.....39490
6317.....39491
6318.....39491
6319.....39492
6320.....39492
6321.....39492
6322.....39493
6323.....39493
6324.....39494
6325.....39494
6326.....39495
6327.....39595

6328.....39495
6329.....39495, 42108
6330.....39682
6331.....39683
6332.....39683
6333.....39824
6334.....39825
6335.....39825
6336.....39826
6337.....39827
6338.....42362

44 CFR

64.....38891, 39499, 41364, 41564, 41741, 41960
65.....38893, 39179, 41742–41744, 41962, 41963
67.....38894, 41564, 41566, 41965
70.....38894–38901, 41745–41751

Proposed Rules:

67.....38923–38926, 41771–41789
350.....39697

45 CFR

5.....41751
95.....41575
205.....41575
206.....41108
232.....41108
233.....41108
234.....41108
238.....41108
240.....41108
304.....41575
1321.....41754
1392.....41575

46 CFR

4.....39683
10.....40800
26.....39683
33.....41368
35.....39683
75.....41368
78.....39683
94.....41368
97.....39683
109.....39683
151.....40805
157.....40800
160.....41368
167.....39683
180.....41368
185.....39683
192.....41368
196.....39683
502.....40624
507.....40413
531.....38685
536.....39685

Proposed Rules:

Ch. I.....38707
7.....40815
32.....38707, 41404
534.....40667
536.....40667, 41600

47 CFR

Ch. I.....40413, 41116
0.....41380
15.....40166
22.....39685
68.....39686
73.....38902, 38903, 39185, 40168–40173, 40428–40436, 41381
74.....40170–40175
90.....39502, 41002, 41045
97.....40178

Proposed Rules:

1.....38927
2.....38561
34.....38927
35.....38927
43.....38927
73.....38930–38937, 39207, 39697, 40451–40459, 41404, 42001, 42125, 42383
74.....38561
76.....39207, 39212
81.....40187
83.....40187, 40189
90.....40194, 41046
94.....38561

49 CFR

1.....39687
179.....38697
192.....41381
212.....41048
213.....39398
232.....40807
571.....38698
1011.....40631
1039.....38904
1057.....39185
1090.....38904
1137.....39687
1300.....38904

Proposed Rules:

1.....41404
173.....38708, 40816
178.....38708, 40816
218.....42001
228.....42003
391.....39698, 42383
565.....42004
571.....42004, 42009
572.....41406
1033.....41144
1100.....41600
1102.....38946
1111.....40668
1117.....40816
1118.....40816
1122.....41600
1127.....39700
1135.....40816
1244.....41603
1300.....42126
1306.....42126
1307.....42126
1309.....42126
1310.....42126

50 CFR

17.....38540, 39827
20.....41252, 42524
32.....40298
258.....40437
285.....40179
611.....38543, 39186, 40438
652.....38544
654.....41757
661.....38545
671.....40180
672.....40441
674.....39513

Proposed Rules:

11.....40670
12.....40670
17.....40196, 40673, 41145, 42387
23.....39219
32.....41790–41792
33.....41790
37.....41060
216.....40676
611.....38947
645.....38948
653.....42596
654.....39221

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing September 27, 1982

Now Available 1980-1981 Microfilm Editions of the Federal Register

The microfilm editions of the **Federal Register** for 1980 and 1981 (volumes 45 and 46) are now available at a cost of $735. These volumes cover 150,566 pages, the annual indexes, and the quarterly indexes of the List of CFR Sections Affected. Volume 45, the 1980 edition, is available on 26 rolls of microfilm at a cost of $390. Volume 46, the 1981 edition, is on 23 rolls and costs $345. The entire microfilm publication (M190), now comprising 410 rolls and spanning the years 1936–1981, is for sale at $6,150. Further information concerning the 1980–81 volumes or any other volumes may be obtained from the Publications Sales Branch (NEPS), National Archives and Records Service, Washington, D.C. 20408.

Institutions or business may place their orders directly with NEPS. The **Federal Register** is filmed on 35 mm. roll film only.